

1-1 By: Hilderbran, Harper-Brown H.B. No. 257
1-2 (Senate Sponsor - Patrick)
1-3 (In the Senate - Received from the House May 5, 2011;
1-4 May 9, 2011, read first time and referred to Committee on Finance;
1-5 May 18, 2011, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 14, Nays 0; May 18, 2011,
1-7 sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 257 By: Patrick

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to certain unclaimed property that is presumed abandoned.
1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. Section 72.101(a), Property Code, is amended to
1-14 read as follows:
1-15 (a) Except as provided by this section and Sections 72.1015,
1-16 72.1016, 72.1017, and 72.102, personal property is presumed
1-17 abandoned if, for longer than three years:
1-18 (1) the existence and location of the owner of the
1-19 property is unknown to the holder of the property; and
1-20 (2) according to the knowledge and records of the
1-21 holder of the property, a claim to the property has not been
1-22 asserted or an act of ownership of the property has not been
1-23 exercised.
1-24 SECTION 2. Subchapter B, Chapter 72, Property Code, is
1-25 amended by adding Section 72.1017 to read as follows:
1-26 Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:
1-27 (1) "Utility" has the meaning assigned by Section
1-28 183.001, Utilities Code.
1-29 (2) "Utility deposit" is a refundable money deposit a
1-30 utility requires a user of the utility service to pay as a condition
1-31 of initiating the service.
1-32 (b) Notwithstanding Section 73.102, a utility deposit is
1-33 presumed abandoned on the latest of:
1-34 (1) 18 months after the date a refund check for the
1-35 utility deposit was payable to the owner of the deposit;
1-36 (2) 18 months after the date the utility last received
1-37 documented communication from the owner of the utility deposit; or
1-38 (3) 18 months after the date the utility issued a
1-39 refund check for the deposit payable to the owner of the deposit if,
1-40 according to the knowledge and records of the utility or payor of
1-41 the check, during that period, a claim to the check has not been
1-42 asserted or an act of ownership by the payee has not been exercised.
1-43 (c) A utility deposit is not presumed abandoned for two
1-44 years from the time the depositor provides documentation to the
1-45 utility of being called to active military service in any branch of
1-46 the United States armed forces during any part of the period
1-47 described by Subsection (b).
1-48 SECTION 3. Section 72.102(c), Property Code, is amended to
1-49 read as follows:
1-50 (c) A money order to which Subsection (a) applies is
1-51 presumed to be abandoned on the latest of:
1-52 (1) the third [~~seventh~~] anniversary of the date on
1-53 which the money order was issued;
1-54 (2) the third [~~seventh~~] anniversary of the date on
1-55 which the issuer of the money order last received from the owner of
1-56 the money order communication concerning the money order; or
1-57 (3) the third [~~seventh~~] anniversary of the date of the
1-58 last writing, on file with the issuer, that indicates the owner's
1-59 interest in the money order.
1-60 SECTION 4. Section 72.103, Property Code, is amended to
1-61 read as follows:
1-62 Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any
1-63 other provision of this title except a provision of this section or

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

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

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

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

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

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

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

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

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

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

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

- (1) the holder is holding the property; and
- (2) the holder may be required to deliver the property to the comptroller on or before July ~~[November]~~ 1 if the property is not claimed.

SECTION 8. Sections 74.301(a) and (c), Property Code, are 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 ~~[from time to time]~~ may 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

3-1 comptroller shall exercise the judgment and care of a prudent
3-2 person.

3-3 SECTION 10. Section 74.708, Property Code, is amended to
3-4 read as follows:

3-5 Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March
3-6 1 [~~June 30~~] holds property presumed abandoned under Chapters 72-75
3-7 holds the property in trust for the benefit of the state on behalf
3-8 of the missing owner and is liable to the state for the full value of
3-9 the property, plus any accrued interest and penalty. A holder is
3-10 not required by this section to segregate or establish trust
3-11 accounts for the property provided the property is timely delivered
3-12 to the comptroller in accordance with Section 74.301.

3-13 SECTION 11. A charge imposed on a money order under Section
3-14 72.103, Property Code, by a holder before the effective date of this
3-15 Act is governed by the law applicable to the charge immediately
3-16 before the effective date of this Act, and the holder may retain the
3-17 charge.

3-18 SECTION 12. (a) Except as provided by Subsection (b) of
3-19 this section, this Act takes effect September 1, 2011.

3-20 (b) Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and
3-21 74.708, Property Code, as amended by this Act, take effect January
3-22 1, 2013.

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