

By: Watson

S.B. No. 1535

A BILL TO BE ENTITLED

AN ACT

relating to unclaimed property.

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

SECTION 1. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1025 to read as follows:

Sec. 72.1025. CLASS ACTION PROCEEDS. (a) In this section:

(1) "Class action proceeds" means a negotiable instrument, including a check, or other intangible property issued or made payable to a person who is a member of the class or a participant in the class action to satisfy, wholly or partly, a judgment in a class action or a class action settlement agreement.

(2) "Holder" means a court, a settlement administrator, or any other person in possession of class action proceeds at the time the proceeds are presumed abandoned.

(b) 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, unless a different abandonment period is established by the court or the settlement agreement.

(c) Notwithstanding Sections 74.101(a) and 74.301(a), a holder shall deliver class action proceeds, accompanied by a property report under Section 74.101, to the comptroller not later than the 60th day after the date the proceeds are presumed abandoned.

1        (d) Sections 74.1011 and 74.103 do not apply to a holder  
2 under this section.

3        (e) To the extent this section conflicts with any other law,  
4 this section controls.

5        SECTION 2. Section 74.501, Property Code, is amended by  
6 amending Subsections (d) and (e) and adding Subsections (d-1) and  
7 (e-1) to read as follows:

8        (d) On receipt of a claim form and all necessary  
9 documentation and as may be appropriate under the circumstances,  
10 the comptroller may approve the claim of:

11            (1) the reported owner of the property;

12            (2) if the reported owner died testate:

13                    (A) the appropriate legal beneficiaries of the  
14 owner as provided by the last will and testament of the owner that  
15 has been accepted into probate or filed as a muniment of title; or

16                    (B) the executor of the owner's last will and  
17 testament who holds current letters testamentary;

18            (3) if the reported owner died intestate:

19                    (A) the legal heirs of the owner as provided by  
20 Section 38, Texas Probate Code; or

21                    (B) the court-appointed administrator of the  
22 owner's estate;

23            (4) the legal heirs of the reported owner as  
24 established by an affidavit of heirship order signed by a judge of  
25 the county probate court or by a county judge;

26            (5) if the reported owner is a minor child or an adult  
27 who has been adjudged incompetent by a court of law, the parent or

1 legal guardian of the child or adult;

2 (6) if the reported owner is an active [~~a~~]  
3 corporation:

4 (A) the president of the corporation or chair or  
5 officer of the board of directors of the corporation, on behalf of  
6 the corporation; [~~or~~]

7 (B) any person who is legally authorized by the  
8 corporation, through the corporation's bylaws or a resolution of  
9 the corporation's board of directors, [~~has legal authority~~] to act  
10 on behalf of the corporation; or

11 (C) the corporation's bankruptcy trustee or  
12 other person under current appointment by the bankruptcy court to  
13 manage the corporation's bankruptcy estate, if the corporation is  
14 or has been a debtor in bankruptcy;

15 (7) if the reported owner is a domestic entity, as  
16 defined by Section 1.002, Business Organizations Code,  
17 [~~corporation~~] that has been dissolved, terminated as provided by  
18 Section 11.251 of that code, or liquidated or is a foreign entity,  
19 as defined by Section 1.002 of that code, whose registration to  
20 transact business in this state has been revoked:

21 (A) the sole surviving shareholder or owner of  
22 the entity [~~corporation~~], if there is only one surviving  
23 shareholder or owner;

24 (B) the surviving shareholders or owners of the  
25 entity [~~corporation~~] in proportion to their ownership of the entity  
26 [~~corporation~~], if there is more than one surviving shareholder or  
27 owner;

1 (C) the entity's [~~corporation's~~] bankruptcy  
2 trustee or other person under current appointment by the bankruptcy  
3 court to manage the entity's bankruptcy estate; [or]

4 (D) a receiver appointed for a domestic entity by  
5 a court under Section 11.404 or 11.405, Business Organizations  
6 Code, or other law, except a receiver described by Subsection (e)  
7 [the court-ordered receiver for the corporation]; or

8 (E) a receiver appointed for a foreign entity by  
9 a court under Section 11.410, Business Organizations Code, or other  
10 law, except a receiver described by Subsection (e); or

11 (8) any other person authorized [~~that is entitled~~] to  
12 receive the unclaimed property under rules adopted by the  
13 comptroller [~~other law or comptroller policy~~].

14 (d-1) In Subsection (d)(6), "active corporation" means:

15 (1) a domestic corporation that is not a terminated  
16 entity, as defined by Section 11.001, Business Organizations Code,  
17 and has not been terminated under the corporation's governing  
18 documents; or

19 (2) a foreign entity, as defined by Section 1.002,  
20 Business Organizations Code, that is registered or otherwise  
21 authorized to transact business in this state under Chapter 9,  
22 Business Organizations Code.

23 (e) Notwithstanding Subsection (d), except [~~Except~~] as  
24 provided by Subsection (f), the comptroller may not pay to the  
25 following persons a claim to which this section applies:

26 (1) a creditor, a judgment creditor, a lienholder, or  
27 an assignee of the reported owner or of the owner's heirs; [~~or~~]

1           (2) a person holding a power of attorney from the  
2 reported owner or the owner's heirs; or

3           (3) a receiver, agent, assignee, representative, or  
4 other person acting on behalf of a person described by Subdivision  
5 (1).

6           (e-1) The comptroller may challenge the validity of a  
7 receivership order in the court that issued the order or in a  
8 district court in Travis County.

9           SECTION 3. (a) Section 72.1025, Property Code, as added by  
10 this Act, applies only to proceeds from a class action commenced on  
11 or after the effective date of this Act. Proceeds from a class  
12 action commenced before the effective date of this Act are governed  
13 by the law in effect immediately before the effective date of this  
14 Act, and that law is continued in effect for that purpose.

15           (b) Section 74.501, Property Code, as amended by this Act,  
16 applies only to a claim for unclaimed property filed on or after the  
17 effective date of this Act. A claim filed before the effective date  
18 of this Act is governed by the law in effect immediately before the  
19 effective date of this Act, and that law is continued in effect for  
20 that purpose.

21           SECTION 4. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2011.