

1-1 By: Watson S.B. No. 1535  
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read  
1-3 first time and referred to Committee on Finance; April 11, 2011,  
1-4 reported favorably by the following vote: Yeas 11, Nays 2;  
1-5 April 11, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to unclaimed property.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subchapter B, Chapter 72, Property Code, is  
1-11 amended by adding Section 72.1025 to read as follows:

1-12 Sec. 72.1025. CLASS ACTION PROCEEDS. (a) In this section:

1-13 (1) "Class action proceeds" means a negotiable  
1-14 instrument, including a check, or other intangible property issued  
1-15 or made payable to a person who is a member of the class or a  
1-16 participant in the class action to satisfy, wholly or partly, a  
1-17 judgment in a class action or a class action settlement agreement.

1-18 (2) "Holder" means a court, a settlement  
1-19 administrator, or any other person in possession of class action  
1-20 proceeds at the time the proceeds are presumed abandoned.

1-21 (b) Class action proceeds are presumed abandoned if the  
1-22 proceeds are unclaimed on or before the 90th day after the date the  
1-23 proceeds were made payable and available to the members of the  
1-24 class, unless a different abandonment period is established by the  
1-25 court or the settlement agreement.

1-26 (c) Notwithstanding Sections 74.101(a) and 74.301(a), a  
1-27 holder shall deliver class action proceeds, accompanied by a  
1-28 property report under Section 74.101, to the comptroller not later  
1-29 than the 60th day after the date the proceeds are presumed  
1-30 abandoned.

1-31 (d) Sections 74.1011 and 74.103 do not apply to a holder  
1-32 under this section.

1-33 (e) To the extent this section conflicts with any other law,  
1-34 this section controls.

1-35 SECTION 2. Section 74.501, Property Code, is amended by  
1-36 amending Subsections (d) and (e) and adding Subsections (d-1) and  
1-37 (e-1) to read as follows:

1-38 (d) On receipt of a claim form and all necessary  
1-39 documentation and as may be appropriate under the circumstances,  
1-40 the comptroller may approve the claim of:

1-41 (1) the reported owner of the property;

1-42 (2) if the reported owner died testate:

1-43 (A) the appropriate legal beneficiaries of the  
1-44 owner as provided by the last will and testament of the owner that  
1-45 has been accepted into probate or filed as a muniment of title; or

1-46 (B) the executor of the owner's last will and  
1-47 testament who holds current letters testamentary;

1-48 (3) if the reported owner died intestate:

1-49 (A) the legal heirs of the owner as provided by  
1-50 Section 38, Texas Probate Code; or

1-51 (B) the court-appointed administrator of the  
1-52 owner's estate;

1-53 (4) the legal heirs of the reported owner as  
1-54 established by an affidavit of heirship order signed by a judge of  
1-55 the county probate court or by a county judge;

1-56 (5) if the reported owner is a minor child or an adult  
1-57 who has been adjudged incompetent by a court of law, the parent or  
1-58 legal guardian of the child or adult;

1-59 (6) if the reported owner is an active [a]  
1-60 corporation:

1-61 (A) the president of the corporation or chair or  
1-62 officer of the board of directors of the corporation, on behalf of  
1-63 the corporation; [ox]

1-64 (B) any person who is legally authorized by the

2-1 corporation, through the corporation's bylaws or a resolution of  
 2-2 the corporation's board of directors, ~~[has legal authority]~~ to act  
 2-3 on behalf of the corporation; or

2-4 (C) the corporation's bankruptcy trustee or  
 2-5 other person under current appointment by the bankruptcy court to  
 2-6 manage the corporation's bankruptcy estate, if the corporation is  
 2-7 or has been a debtor in bankruptcy;

2-8 (7) if the reported owner is a domestic entity, as  
 2-9 defined by Section 1.002, Business Organizations Code,  
 2-10 ~~[corporation]~~ that has been dissolved, terminated as provided by  
 2-11 Section 11.251 of that code, or liquidated or is a foreign entity,  
 2-12 as defined by Section 1.002 of that code, whose registration to  
 2-13 transact business in this state has been revoked:

2-14 (A) the sole surviving shareholder or owner of  
 2-15 the entity ~~[corporation]~~, if there is only one surviving  
 2-16 shareholder or owner;

2-17 (B) the surviving shareholders or owners of the  
 2-18 entity ~~[corporation]~~ in proportion to their ownership of the entity  
 2-19 ~~[corporation]~~, if there is more than one surviving shareholder or  
 2-20 owner;

2-21 (C) the entity's ~~[corporation's]~~ bankruptcy  
 2-22 trustee or other person under current appointment by the bankruptcy  
 2-23 court to manage the entity's bankruptcy estate; ~~[or]~~

2-24 (D) a receiver appointed for a domestic entity by  
 2-25 a court under Section 11.404 or 11.405, Business Organizations  
 2-26 Code, or other law, except a receiver described by Subsection (e)  
 2-27 ~~[the court-ordered receiver for the corporation]~~; or

2-28 (E) a receiver appointed for a foreign entity by  
 2-29 a court under Section 11.410, Business Organizations Code, or other  
 2-30 law, except a receiver described by Subsection (e); or

2-31 (8) any other person authorized ~~[that is entitled]~~ to  
 2-32 receive the unclaimed property under rules adopted by the  
 2-33 comptroller ~~[other law or comptroller policy]~~.

2-34 (d-1) In Subsection (d)(6), "active corporation" means:

2-35 (1) a domestic corporation that is not a terminated  
 2-36 entity, as defined by Section 11.001, Business Organizations Code,  
 2-37 and has not been terminated under the corporation's governing  
 2-38 documents; or

2-39 (2) a foreign entity, as defined by Section 1.002,  
 2-40 Business Organizations Code, that is registered or otherwise  
 2-41 authorized to transact business in this state under Chapter 9,  
 2-42 Business Organizations Code.

2-43 (e) Notwithstanding Subsection (d), except ~~[Except]~~ as  
 2-44 provided by Subsection (f), the comptroller may not pay to the  
 2-45 following persons a claim to which this section applies:

2-46 (1) a creditor, a judgment creditor, a lienholder, or  
 2-47 an assignee of the reported owner or of the owner's heirs; ~~[or]~~

2-48 (2) a person holding a power of attorney from the  
 2-49 reported owner or the owner's heirs; or

2-50 (3) a receiver, agent, assignee, representative, or  
 2-51 other person acting on behalf of a person described by Subdivision  
 2-52 (1).

2-53 (e-1) The comptroller may challenge the validity of a  
 2-54 receivership order in the court that issued the order or in a  
 2-55 district court in Travis County.

2-56 SECTION 3. (a) Section 72.1025, Property Code, as added by  
 2-57 this Act, applies only to proceeds from a class action commenced on  
 2-58 or after the effective date of this Act. Proceeds from a class  
 2-59 action commenced before the effective date of this Act are governed  
 2-60 by the law in effect immediately before the effective date of this  
 2-61 Act, and that law is continued in effect for that purpose.

2-62 (b) Section 74.501, Property Code, as amended by this Act,  
 2-63 applies only to a claim for unclaimed property filed on or after the  
 2-64 effective date of this Act. A claim filed before the effective date  
 2-65 of this Act is governed by the law in effect immediately before the  
 2-66 effective date of this Act, and that law is continued in effect for  
 2-67 that purpose.

2-68 SECTION 4. This Act takes effect immediately if it receives  
 2-69 a vote of two-thirds of all the members elected to each house, as

3-1 provided by Section 39, Article III, Texas Constitution. If this  
3-2 Act does not receive the vote necessary for immediate effect, this  
3-3 Act takes effect September 1, 2011.

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