

BILL ANALYSIS

C.S.H.B. 1454
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Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding the inability of a designated representative to speak to an account holder on behalf of the representative's client in relation to the abandonment of property. Interested parties assert that when the account holder presumes property to be abandoned, the holder must communicate directly with the property owner. This, the parties note, can be problematic because certain individuals can be difficult to reach, such as those who own shares in a mutual fund or own a safe deposit box and maintain minimal contact with the financial representatives that hold the assets. C.S.H.B. 1454 seeks to address this issue so that a designated representative can communicate with asset holders on behalf of certain asset owners to halt a presumed abandoned property process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1454 amends the Property Code to authorize the owner of shares of a mutual fund to designate the name and a mailing or e-mail address of a representative of the owner only for the purpose of receiving the notice required upon presumption of abandonment but expressly does not require the owner to designate a representative for such purposes. The bill requires the comptroller of public accounts to prescribe a form that a holder of shares of a mutual fund may make available to an owner of the shares to designate a representative for such notice. The bill establishes that such a representative for notice does not have any rights to the mutual fund shares and is prohibited from accessing the shares. The bill establishes that the running of the three-year period leading to a presumption of abandonment ceases immediately if a designated representative communicates to the holder that the representative knows the owner's location and that the owner exists and has not abandoned the shares of the mutual fund.

C.S.H.B. 1454 authorizes the depositor of an account or the owner of the contents of a safe deposit box to designate the name and a mailing or e-mail address of a representative of the depositor or the owner only for the purpose of receiving the notice required upon presumption of abandonment but expressly does not require the depositor or owner to designate a representative for such purposes. The bill requires the comptroller to prescribe a form that a holder of an account or the contents of a safe deposit box may make available to a depositor of the account or owner of the contents of the box to designate a representative for such notice. The bill establishes that such a representative for notice does not have any rights to the account or safe deposit box

and is prohibited from accessing the account or box. The bill establishes that the running of a period leading to a presumption of abandonment ceases immediately if a designated representative communicates to the holder that the representative knows the depositor's or owner's location and that the depositor or owner exists and has not abandoned the account or the contents of a safe deposit box.

C.S.H.B. 1454 requires a property holder, if an owner has designated a representative for notice under the bill's provisions, to mail or e-mail the written notice required upon presumption of abandonment to the representative in addition to mailing the notice to the owner. The bill adds the name and last known mailing or e-mail address of any person designated as a representative for notice under the bill's provisions to the list of information required to be included in a property holder's abandoned property report to the comptroller, if known by the property holder, and to the list of information for which a property holder required to file such a report must keep a record.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1454 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1021 to read as follows:

Sec. 72.1021. SHARES OF MUTUAL FUND; DESIGNATION OF REPRESENTATIVE FOR NOTICE. (a) The holder of the shares of a mutual fund shall request the name and a mailing or e-mail address of a representative of the owner of the shares for the purpose of providing the notice required by Section 74.1011. The owner is not required to designate a representative under this subsection.

(b) The running of the three-year period of abandonment under Section 72.101 ceases immediately if a representative designated under this section communicates to the holder that the representative knows:
(1) the owner's location; and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1021 to read as follows:

Sec. 72.1021. SHARES OF MUTUAL FUND; DESIGNATION OF REPRESENTATIVE FOR NOTICE. (a) The owner of shares of a mutual fund may designate the name and a mailing or e-mail address of a representative of the owner only for the purpose of receiving the notice required by Section 74.1011. The owner is not required to designate a representative under this subsection.

(b) The comptroller shall prescribe a form that a holder of shares of a mutual fund may make available to an owner of the shares to designate a representative for notice under this section.

(c) A representative for notice designated under this section does not have any rights to the mutual fund shares and may not access the shares.

(d) The running of the three-year period of abandonment under Section 72.101 ceases immediately if a representative designated under this section communicates to the holder that the representative knows:
(1) the owner's location; and

(2) that the owner exists and has not abandoned the shares of the mutual fund.

SECTION 2. Subchapter B, Chapter 73, Property Code, is amended by adding Section 73.103 to read as follows:

Sec. 73.103. DESIGNATION OF REPRESENTATIVE FOR NOTICE. (a) The holder of an account or the contents of a safe deposit box shall request the name and a mailing or e-mail address of a representative of the depositor of the account or the owner of the contents of the box for the purpose of providing the notice required by Section 74.1011. The depositor or owner is not required to designate a representative under this subsection.

(b) The running of a period of abandonment under Section 73.101 ceases immediately if a representative designated under this section communicates to the holder that the representative knows:

- (1) the depositor's or owner's location; and
- (2) that the depositor or owner exists and has not abandoned the account or the contents of a safe deposit box.

SECTION 3. Section 74.101(c), Property Code, is amended.

SECTION 4. Section 74.1011, Property Code, is amended.

SECTION 5. Section 74.103(a), Property Code, is amended.

SECTION 6. This Act takes effect September 1, 2015.

(2) that the owner exists and has not abandoned the shares of the mutual fund.

SECTION 2. Subchapter B, Chapter 73, Property Code, is amended by adding Section 73.103 to read as follows:

Sec. 73.103. DESIGNATION OF REPRESENTATIVE FOR NOTICE. (a) The depositor of an account or the owner of the contents of a safe deposit box may designate the name and a mailing or e-mail address of a representative of the depositor or the owner only for the purpose of receiving the notice required by Section 74.1011. The depositor or owner is not required to designate a representative under this subsection.

(b) The comptroller shall prescribe a form that a holder of an account or the contents of a safe deposit box may make available to a depositor of the account or owner of the contents of the box to designate a representative for notice under this section.

(c) A representative for notice designated under this section does not have any rights to the account or safe deposit box and may not access the account or box.

(d) The running of a period of abandonment under Section 73.101 ceases immediately if a representative designated under this section communicates to the holder that the representative knows:

- (1) the depositor's or owner's location; and
- (2) that the depositor or owner exists and has not abandoned the account or the contents of a safe deposit box.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. This Act takes effect January 1, 2016.