

BILL ANALYSIS

C.S.H.B. 3598
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The comptroller of public accounts administers the state's unclaimed property program, which seeks to reunite owners with abandoned property. It has been suggested that current law relating to the program does not adequately take into consideration certain business entities, such as affiliated groups, or administrative realities, such as the ability to advertise the program and sell certain items delivered to the comptroller as unclaimed property. Additionally, concerns have been raised that ambiguities in statute regarding the authority of the comptroller and office of the attorney general to compel holders of unclaimed property to submit to audits interfere with the comptroller's ability to successfully complete authorized examinations of books and records. C.S.H.B. 3598 seeks to address these and other issues relating to the program to provide clarity to property holders and owners and ensure that the comptroller can fulfill its statutory responsibility to return unclaimed property to the rightful owner.

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. 3598 amends the Property Code to remove the condition that the existence of unclaimed personal property be unknown to the holder of the property for longer than three years for it to be presumed abandoned. The bill clarifies that statutory provisions relating to the report, delivery, and claims process for abandoned personal property, abandoned property held by a financial institution, or abandoned mineral proceeds apply to the property instead of applying to the holder of the property. The bill changes when the 10-year retention period for certain records of a holder of applicable property begins from the date on which the property is reportable to the later of that date or the date a property report is filed.

C.S.H.B. 3598 provides for combined reporting by a holder who is required to file a property report and who is a member of an affiliated group by requiring the holder to file one report for the affiliated group. The bill requires a person who is required to file such a property report in any year to file a property report in each successive year or, if a person to whom this requirement applies is not holding any reportable property, requires the person to certify that fact. The bill authorizes the comptroller of public accounts to advertise or otherwise promote the unclaimed property program in any available media to further the purposes of the applicable statutory provisions and to provide effective and efficient notice to reported owners. The bill revises certain requirements relating to the comptroller's public sale of personal property that is

delivered to the comptroller as required by statute for applicable abandoned property.

C.S.H.B. 3598 specifies that the comptroller may approve the claim of the court-appointed administrator of the estate of a reported owner who died intestate to property delivered to the comptroller as abandoned, if other conditions are met, on the condition that the administrator was appointed before the fourth anniversary of the date of the owner's death. The bill prohibits the comptroller from paying such a claim to a person attempting to make a claim on behalf of a corporation that was previously forfeited, dissolved, or terminated, if the comptroller finds that the corporation was revived for the purpose of making such a claim and that the person submitting the claim was not an authorized representative of the corporation at the time of that forfeiture, dissolution, or termination. The bill expands the authority of the comptroller, the attorney general, or an authorized agent of either to examine applicable records by doing the following:

- specifying that such an examination may be made at any reasonable place;
- changing the person subject to such an examination from the holder of applicable property to any person;
- establishing that the authority applies to any books, records, papers, information, or other objects determined by the comptroller or attorney general to be necessary to conduct a complete examination.

C.S.H.B. 3598 prohibits the comptroller or attorney general from beginning an applicable examination of records after the seventh anniversary of the date a person filed a property report. This limitation period expressly does not apply under the following circumstances:

- if the person has filed a false or fraudulent property report with the intent to avoid required delivery of unclaimed property to the comptroller;
- if a property report for a period has not been filed; or
- if a court grants a petition to compel the person to submit to such an examination under these statutory provisions, deliver property, or file a property report.

A person who has filed a false or fraudulent report is presumed to have acted with intent to avoid required delivery of property if, after correction of such a report, the amount of property to be delivered exceeds the amount initially reported by at least 25 percent.

C.S.H.B. 3598 requires the attorney general to assist the comptroller in enforcing statutory provisions relating to unclaimed property at the comptroller's request. The bill includes the Texas Workforce Commission or any other state agency or political subdivision among the entities required to assist the comptroller or attorney general in enforcing those provisions on request. The bill prohibits a state agency or political subdivision from imposing a charge for providing a copy of public information requested by the comptroller under this requirement to assist in enforcement. The bill requires the attorney general, on request of the comptroller, to bring certain actions in the name of the state for purposes of such enforcement to include an action to compel a person to permit an applicable examination of records.

C.S.H.B. 3598 authorizes the comptroller, to enforce provisions relating to unclaimed property, to take testimony, administer oaths, and issue certain subpoenas and to delegate this authority to an attorney employed by the comptroller. The bill provides for the service of such a subpoena and sets out provisions relating to its enforcement.

C.S.H.B. 3598 repeals Section 74.401(c), Property Code, relating to the disposition of property delivered to the comptroller for public sale that belongs to a person with an address outside Texas or the sale of which is determined to exceed its value.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3598 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a provision establishing an affiliated group as a single entity for purposes of the application and enforcement of statutory provisions relating to unclaimed property.