

1-1 By: Landgraf (Senate Sponsor - Zaffirini) H.B. No. 1514
1-2 (In the Senate - Received from the House April 8, 2021;
1-3 April 12, 2021, read first time and referred to Committee on State
1-4 Affairs; April 22, 2021, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 22, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Campbell	X		
1-12	Hall	X		
1-13	Lucio	X		
1-14	Nelson	X		
1-15	Powell	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1514 By: Zaffirini

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the administration of unclaimed property.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Section 551.005(b), Estates Code, is amended to
1-24 read as follows:
1-25 (b) The clerk of a court that orders an executor or
1-26 administrator to pay funds to the comptroller under Section 551.001
1-27 shall provide to [serve on] the comptroller, by certified mail or
1-28 e-mail [personal service of citation], a certified copy of the
1-29 court order not later than the fifth day after the date the order is
1-30 issued.
1-31 SECTION 2. Section 1109.013(c), Insurance Code, is amended
1-32 to read as follows:
1-33 (c) An insurer shall report and deliver unclaimed proceeds
1-34 to the comptroller as required by Chapter 74, Property Code
1-35 [Section 1109.051].
1-36 SECTION 3. Section 72.001, Property Code, is amended by
1-37 adding Subsection (a-1) to read as follows:
1-38 (a-1) Tangible or intangible personal property is not
1-39 subject to this chapter if it is a worthless or non-freely
1-40 transferable security.
1-41 SECTION 4. Section 74.001(a), Property Code, is amended to
1-42 read as follows:
1-43 (a) Except as provided by this section [Subsection (b)],
1-44 this chapter applies to:
1-45 (1) property that is presumed abandoned under Chapter
1-46 72, Chapter 73, or Chapter 75;
1-47 (2) property that is presumed abandoned under Chapter
1-48 154, Finance Code;
1-49 (3) unclaimed proceeds under Chapter 1109, Insurance
1-50 Code; or
1-51 (4) any other law requiring a person to report and
1-52 deliver property to the comptroller under this chapter.
1-53 SECTION 5. Section 74.101(a), Property Code, is amended to
1-54 read as follows:
1-55 (a) Each holder who on March 1 holds property to which this
1-56 chapter applies [that is presumed abandoned under Chapter 72, 73,
1-57 or 75 of this code or under Chapter 154, Finance Code,] shall file a
1-58 report of that property on or before the following July 1. The
1-59 comptroller may require the report to be in a particular format,
1-60 including a format that can be read by a computer.

2-1 SECTION 6. Sections 74.1011(a), (b), and (b-1), Property
2-2 Code, are amended to read as follows:

2-3 (a) Except as provided by Subsection (b), a holder who on
2-4 March 1 holds property to which this chapter applies that is valued
2-5 at more than \$250 [that is presumed abandoned under Chapter 72, 73,
2-6 or 75 of this code or Chapter 154, Finance Code,] shall, not later
2-7 than the 60th day before the date the property is delivered to the
2-8 comptroller, provide to the owner by [on or before the following May
2-9 1,] mail to the last known address of the [known] owner or by e-mail
2-10 written notice stating that:

- 2-11 (1) the holder is holding the property; and
- 2-12 (2) the holder may be required to deliver the property
2-13 to the comptroller on or before July 1 if the property is not
2-14 claimed.

2-15 (b) The notice required under Subsection (a) does not apply
2-16 to a holder who:

2-17 (1) has already provided such notice to the owner of
2-18 the property or a person entitled to the property under existing
2-19 federal law, rules, and regulations or state law within the time
2-20 specified under Subsection (a); or

2-21 (2) does not have a record of a physical or e-mail [an]
2-22 address for the property owner or any other person entitled to the
2-23 property.

2-24 (b-1) If an owner has designated a representative for notice
2-25 under Section 72.1021 or 73.103, the holder shall mail or e-mail the
2-26 written notice required under Subsection (a) to the representative
2-27 in addition to providing written [mailing the] notice to the owner.

2-28 SECTION 7. Section 74.301(a), Property Code, is amended to
2-29 read as follows:

2-30 (a) Except as provided by Subsection (c), each holder who on
2-31 March 1 holds property to which this chapter applies [that is
2-32 presumed abandoned under Chapter 72, 73, or 75] shall deliver the
2-33 property to the comptroller on or before the following July 1
2-34 accompanied by the report required to be filed under Section
2-35 74.101.

2-36 SECTION 8. Section 74.401(d), Property Code, is amended to
2-37 read as follows:

2-38 (d) If after investigation the comptroller determines that
2-39 property delivered under this chapter is not marketable or [from a
2-40 safe deposit box or other repository] has insubstantial commercial
2-41 value, the comptroller may destroy or otherwise dispose of the
2-42 property at any time.

2-43 SECTION 9. Subchapter E, Chapter 74, Property Code, is
2-44 amended by adding Section 74.405 to read as follows:

2-45 Sec. 74.405. DISPOSITION OF SECURITIES. (a) The
2-46 comptroller may sell or otherwise liquidate a security delivered to
2-47 the comptroller under this chapter.

2-48 (b) The comptroller may not sell a security listed on an
2-49 established stock exchange for less than the price prevailing on
2-50 the exchange at the time of sale. The comptroller may sell a
2-51 security not listed on an established exchange by any commercially
2-52 reasonable method.

2-53 SECTION 10. Sections 74.501(c), (d), and (f), Property
2-54 Code, are amended to read as follows:

2-55 (c) All claims to which this subchapter [section] applies
2-56 must:

- 2-57 (1) identify the specific property in the possession
2-58 of the comptroller that is being claimed;
- 2-59 (2) include all necessary documentation the
2-60 comptroller may require; and
- 2-61 (3) except as provided by Section 74.503, be filed in
2-62 accordance with procedures, contain the information, and be on
2-63 forms prescribed by the comptroller.

2-64 (d) On receipt of a claim form and all necessary
2-65 documentation the comptroller may require, or [and] as may be
2-66 appropriate under the circumstances, the comptroller may approve
2-67 the claim of:

- 2-68 (1) the reported owner of the property;
- 2-69 (2) if the reported owner died testate:

3-1 (A) the appropriate legal beneficiaries of the
3-2 owner as provided by the last will and testament of the owner that
3-3 has been accepted into probate or filed as a muniment of title; ~~or~~

3-4 (B) the executor of the owner's last will and
3-5 testament who holds current letters testamentary; or

3-6 (C) the appropriate legal beneficiaries of the
3-7 owner as provided by a valid last will and testament of the owner
3-8 that has not been accepted into probate or filed as a muniment of
3-9 title, if:

3-10 (i) the amount of the property being
3-11 claimed is less than \$10,000; and

3-12 (ii) the beneficiaries named in the will
3-13 are the same persons who would inherit the property if the owner had
3-14 died intestate;

3-15 (3) if the reported owner died intestate:

3-16 (A) the legal heirs of the owner as provided by
3-17 Sections 201.001, ~~and~~ 201.002, and 201.003, Estates Code; ~~or~~

3-18 (B) the court-appointed independent
3-19 administrator of the owner's estate, if the administrator was
3-20 appointed before the fourth anniversary of the date of the death of
3-21 the owner; or

3-22 (C) the court-appointed dependent administrator
3-23 of the owner's estate;

3-24 (4) the legal heirs of the reported owner as
3-25 established by a determination ~~[an affidavit]~~ of heirship order
3-26 signed by a judge of the county probate court or by a county judge;

3-27 (5) if the reported owner is a minor child or an adult
3-28 who has been adjudged incompetent by a court of law, the parent or
3-29 legal guardian of the child or adult;

3-30 (6) if the reported owner is a corporation:

3-31 (A) the president or chair of the board of
3-32 directors of the corporation, on behalf of the corporation; or

3-33 (B) any person who has legal authority to act on
3-34 behalf of the corporation;

3-35 (7) if the reported owner is a corporation that has
3-36 been dissolved or liquidated:

3-37 (A) the sole surviving shareholder of the
3-38 corporation, if there is only one surviving shareholder;

3-39 (B) the surviving shareholders of the
3-40 corporation in proportion to their ownership of the corporation, if
3-41 there is more than one surviving shareholder;

3-42 (C) the corporation's bankruptcy trustee,
3-43 bankruptcy estate representative, or other person authorized
3-44 pursuant to Title 11, United States Code, or an order of a
3-45 bankruptcy court to act on behalf of or for the benefit of the
3-46 corporation's bankruptcy estate, or any assignee of any such
3-47 person; or

3-48 (D) the court-ordered receiver for the
3-49 corporation; or

3-50 (8) any other person that is entitled to receive the
3-51 unclaimed property under other law or comptroller policy.

3-52 (f) Notwithstanding Subsection (e), the ~~[The]~~ comptroller
3-53 may approve the ~~[a]~~ claim of ~~[for]:~~

3-54 (1) the attorney general or other Title IV-D agency,
3-55 as defined by Section 101.033, Family Code, for child support
3-56 arrears owed by the reported owner of the property that are ~~[and]~~
3-57 reflected in a child support lien notice that complies with Section
3-58 157.313, Family Code; or

3-59 (2) a person holding a durable power of attorney of a
3-60 person who is medically incapacitated. ~~[A claim under this~~
3-61 ~~subsection may be submitted by the lienholder or the attorney~~
3-62 ~~general on behalf of the lienholder.]~~

3-63 SECTION 11. Section 74.501(e), Property Code, as amended by
3-64 Chapters 267 (S.B. 1420) and 897 (H.B. 3598), Acts of the 86th
3-65 Legislature, Regular Session, 2019, is reenacted and amended to
3-66 read as follows:

3-67 (e) Except as provided by Subsection (d)(7) or (f) or
3-68 Section 551.051, Estates Code, the comptroller may not pay to the
3-69 following persons a claim to which this section applies:

4-1 (1) a creditor, a judgment creditor, a lienholder, or
4-2 an assignee of the reported owner or of the owner's heirs;

4-3 (2) a person holding a power of attorney from the
4-4 reported owner or the owner's heirs; or

4-5 (3) a person attempting to make a claim on behalf of a
4-6 corporation that was previously forfeited, dissolved, or
4-7 terminated, if the comptroller finds that:

4-8 (A) the corporation was revived for the purpose
4-9 of making a claim under this section; and

4-10 (B) the person submitting the claim was not an
4-11 authorized representative of the corporation at the time of the
4-12 corporation's forfeiture, dissolution, or termination.

4-13 SECTION 12. Subchapter F, Chapter 74, Property Code, is
4-14 amended by adding Section 74.503 to read as follows:

4-15 Sec. 74.503. WAIVER OF CLAIM REQUIREMENT. The comptroller
4-16 may waive the requirement of filing a claim and pay or deliver
4-17 property directly to a person who does not file a claim if:

4-18 (1) the person receiving the property is the reported
4-19 owner of the property;

4-20 (2) the comptroller reasonably believes the person is
4-21 entitled to receive the property or payment; and

4-22 (3) the property has a value of less than \$5,000.

4-23 SECTION 13. Sections 74.506(a) and (b), Property Code, are
4-24 amended to read as follows:

4-25 (a) A person who has filed a claim that complies with
4-26 Section 74.501(c) may appeal ~~[aggrieved by]~~ the decision of the
4-27 comptroller on the ~~[a]~~ claim ~~[filed under this subchapter may~~
4-28 ~~appeal the decision]~~ before the 61st day after the day on which it
4-29 was rendered.

4-30 (b) If a claim that complies with Section 74.501(c) has not
4-31 been decided before the 91st day after the day on which it was
4-32 filed, the claimant may file an appeal if, after the claimant
4-33 provides notice by certified mail to the comptroller of the intent
4-34 to file an appeal, the comptroller does not reach a decision on the
4-35 claim on or before the 60th day after the date the notice is
4-36 delivered to the comptroller. An appeal under this section must be
4-37 made within one year of the date the claim was filed ~~[the 60-day~~
4-38 ~~period beginning on the 91st day after the day of filing].~~

4-39 SECTION 14. The heading to Section 74.507, Property Code,
4-40 is amended to read as follows:

4-41 Sec. 74.507. ASSISTANCE OF CLAIMANT; FEE FOR RECOVERY.

4-42 SECTION 15. Section 74.507, Property Code, is amended by
4-43 amending Subsection (a) and adding Subsection (c) to read as
4-44 follows:

4-45 (a) A person who informs a potential claimant that the
4-46 claimant may be entitled to claim property that is reportable to the
4-47 comptroller under this chapter, that has been reported to the
4-48 comptroller, or that is in the possession of the comptroller may not
4-49 contract for or receive from the claimant for services an amount
4-50 that exceeds 10 percent of the value of the property recovered, plus
4-51 reasonable attorney's fees necessary to pursue the claim. If the
4-52 property involved is mineral proceeds, the amount for services may
4-53 not include a portion of the underlying minerals or any production
4-54 payment, overriding royalty, or similar payment.

4-55 (c) An agreement to assist a claimant in the recovery of
4-56 property that is reportable to the comptroller, that has been
4-57 reported to the comptroller, or that is in the possession of the
4-58 comptroller under this chapter is enforceable only if the
4-59 agreement:

4-60 (1) clearly states the nature of the property and the
4-61 services to be provided;

4-62 (2) is signed by or on behalf of the claimant; and

4-63 (3) states the amount or value of the property
4-64 reasonably expected to be recovered, computed before and after a
4-65 fee or other compensation has been deducted.

4-66 SECTION 16. Section 74.601(e), Property Code, is amended to
4-67 read as follows:

4-68 (e) The comptroller may ~~[on receipt or from time to time may~~
4-69 ~~sell securities, including stocks, bonds, and mutual funds,~~

5-1 ~~received under this chapter or any other statute requiring the~~
5-2 ~~delivery of unclaimed property to the comptroller and] use the~~
5-3 ~~proceeds from the sale of securities delivered under this chapter~~
5-4 ~~to buy, exchange, invest, or reinvest in marketable securities.~~
5-5 When making or selling the investments, the comptroller shall
5-6 exercise the judgment and care of a prudent person.

5-7 SECTION 17. Section 74.707(a), Property Code, is amended to
5-8 read as follows:

5-9 (a) The comptroller may waive penalty or interest, in whole
5-10 or in part, imposed on delinquent property if the comptroller
5-11 determines that the holder has made a good faith effort to comply
5-12 with Chapters 72-75, or for other good cause.

5-13 SECTION 18. The following provisions of the Insurance Code
5-14 are repealed:

- 5-15 (1) Section 1109.013(d);
- 5-16 (2) Section 1109.101; and
- 5-17 (3) Subchapters B and D, Chapter 1109.

5-18 SECTION 19. Section 1109.013(c), Insurance Code, as amended
5-19 by this Act, applies only to a report that is due under Chapter 74,
5-20 Property Code, on or after September 1, 2021.

5-21 SECTION 20. To the extent of any conflict, this Act prevails
5-22 over another Act of the 87th Legislature, Regular Session, 2021,
5-23 relating to nonsubstantive additions to and corrections in enacted
5-24 codes.

5-25 SECTION 21. This Act takes effect immediately if it
5-26 receives a vote of two-thirds of all the members elected to each
5-27 house, as provided by Section 39, Article III, Texas Constitution.
5-28 If this Act does not receive the vote necessary for immediate
5-29 effect, this Act takes effect September 1, 2021.

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5-30