

AN ACT

relating to certain unclaimed property that is presumed abandoned.

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

SECTION 1. Section 72.101(a), Property Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015, 72.1016, 72.1017, and 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 2. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1017 to read as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:

(1) "Utility" has the meaning assigned by Section 183.001, Utilities Code.

(2) "Utility deposit" is a refundable money deposit a utility requires a user of the utility service to pay as a condition of initiating the service.

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

1           (1) 18 months after the date a refund check for the  
2 utility deposit was payable to the owner of the deposit;

3           (2) 18 months after the date the utility last received  
4 documented communication from the owner of the utility deposit; or

5           (3) 18 months after the date the utility issued a  
6 refund check for the deposit payable to the owner of the deposit if,  
7 according to the knowledge and records of the utility or payor of  
8 the check, during that period, a claim to the check has not been  
9 asserted or an act of ownership by the payee has not been exercised.

10          (c) A utility deposit is not presumed abandoned for two  
11 years from the time the depositor provides documentation to the  
12 utility of being called to active military service in any branch of  
13 the United States armed forces during any part of the period  
14 described by Subsection (b).

15          SECTION 3. Section 72.102(c), Property Code, is amended to  
16 read as follows:

17          (c) A money order to which Subsection (a) applies is  
18 presumed to be abandoned on the latest of:

19                 (1) the third [~~seventh~~] anniversary of the date on  
20 which the money order was issued;

21                 (2) the third [~~seventh~~] anniversary of the date on  
22 which the issuer of the money order last received from the owner of  
23 the money order communication concerning the money order; or

24                 (3) the third [~~seventh~~] anniversary of the date of the  
25 last writing, on file with the issuer, that indicates the owner's  
26 interest in the money order.

27          SECTION 4. Section 72.103, Property Code, is amended to

1 read as follows:

2           Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any  
3 other provision of this title except a provision of this section or  
4 Section 72.1016 relating to a money order or a stored value card, a  
5 holder of abandoned property shall preserve the property and may  
6 not at any time, by any procedure, including a deduction for  
7 service, maintenance, or other charge, transfer or convert to the  
8 profits or assets of the holder or otherwise reduce the value of the  
9 property. For purposes of this section, value is determined as of  
10 the date of the last transaction or contact concerning the  
11 property, except that in the case of a money order, value is  
12 determined as of the date the property is presumed abandoned under  
13 Section 72.102(c). If a holder imposes service, maintenance, or  
14 other charges on a money order prior to the time of presumed  
15 abandonment, such charges may not exceed the amount of \$1 [~~50 cents~~]  
16 per month for each month the money order remains uncashed prior to  
17 the month in which the money order is presumed abandoned.

18           SECTION 5. Section 73.101, Property Code, is amended by  
19 amending Subsection (a) and adding Subsection (c) to read as  
20 follows:

21           (a) An account or safe deposit box is presumed abandoned if:

22                   (1) except as provided by Subsection (c), the account  
23 or safe deposit box has been inactive for at least five years as  
24 determined under Subsection (b);

25                   (2) the location of the depositor of the account or  
26 owner of the safe deposit box is unknown to the depository; and

27                   (3) the amount of the account or the contents of the

1 box have not been delivered to the comptroller in accordance with  
2 Chapter 74.

3 (c) If the account is a checking or savings account or is a  
4 matured certificate of deposit, the account is presumed abandoned  
5 if the account has been inactive for at least three years as  
6 determined under Subsection (b)(1).

7 SECTION 6. Section 74.101(a), Property Code, is amended to  
8 read as follows:

9 (a) Each holder who on March 1 [~~June 30~~] holds property that  
10 is presumed abandoned under Chapter 72, 73, or 75 of this code or  
11 under Chapter 154, Finance Code, shall file a report of that  
12 property on or before the following July [~~November~~] 1. The  
13 comptroller may require the report to be in a particular format,  
14 including a format that can be read by a computer.

15 SECTION 7. Section 74.1011(a), Property Code, is amended to  
16 read as follows:

17 (a) Except as provided by Subsection (b), a holder who on  
18 March 1 [~~June 30~~] holds property valued at more than \$250 that is  
19 presumed abandoned under Chapter 72, 73, or 75 of this code or  
20 Chapter 154, Finance Code, shall, on or before the following May  
21 [~~August~~] 1, mail to the last known address of the known owner  
22 written notice stating that:

23 (1) the holder is holding the property; and  
24 (2) the holder may be required to deliver the property  
25 to the comptroller on or before July [~~November~~] 1 if the property is  
26 not claimed.

27 SECTION 8. Sections 74.301(a) and (c), Property Code, are

1 amended to read as follows:

2 (a) Except as provided by Subsection (c), each holder who on  
3 March 1 [~~June 30~~] holds property that is presumed abandoned under  
4 Chapter 72, 73, or 75 shall deliver the property to the comptroller  
5 on or before the following July [~~November~~] 1 accompanied by the  
6 report required to be filed under Section 74.101.

7 (c) If the property subject to delivery under Subsection (a)  
8 is the contents of a safe deposit box, the comptroller may instruct  
9 a holder to deliver the property on a specified date before July  
10 [~~November~~] 1 of the following year.

11 SECTION 9. Section 74.601(e), Property Code, is amended to  
12 read as follows:

13 (e) The comptroller on receipt or from time to time may  
14 [~~from time to time~~] sell securities, including stocks, bonds, and  
15 mutual funds, received under this chapter or any other statute  
16 requiring the delivery of unclaimed property to the comptroller and  
17 use the proceeds to buy, exchange, invest, or reinvest in  
18 marketable securities. When making or selling the investments, the  
19 comptroller shall exercise the judgment and care of a prudent  
20 person.

21 SECTION 10. Section 74.708, Property Code, is amended to  
22 read as follows:

23 Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March  
24 1 [~~June 30~~] holds property presumed abandoned under Chapters 72-75  
25 holds the property in trust for the benefit of the state on behalf  
26 of the missing owner and is liable to the state for the full value of  
27 the property, plus any accrued interest and penalty. A holder is

1 not required by this section to segregate or establish trust  
2 accounts for the property provided the property is timely delivered  
3 to the comptroller in accordance with Section 74.301.

4 SECTION 11. A charge imposed on a money order under Section  
5 72.103, Property Code, by a holder before the effective date of this  
6 Act is governed by the law applicable to the charge immediately  
7 before the effective date of this Act, and the holder may retain the  
8 charge.

9 SECTION 12. (a) Except as provided by Subsection (b) of  
10 this section, this Act takes effect September 1, 2011.

11 (b) Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and  
12 74.708, Property Code, as amended by this Act, take effect January  
13 1, 2013.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 257 was passed by the House on May 4, 2011, by the following vote: Yeas 139, Nays 3, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 257 on May 23, 2011, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 257 was passed by the Senate, with amendments, on May 20, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor