

SUBJECT: Changing unclaimed property laws

COMMITTEE: Business and Industry — favorable, with amendments

VOTE: 8 ayes — Brimer, Rhodes, Corte, Elkins, Giddings, Janek, Solomons,
Woolley

0 nays

1 absent — Dukes

SENATE VOTE: On final passage, April 7 — 30-0

WITNESSES: For — None

Against — None

On — Jim Howell, Comptroller's Office

BACKGROUND : Chapters 71 through 75 of the Property Code authorize the comptroller to collect all unclaimed property due Texas citizens and to locate the rightful owners and return their property.

Chapter 74 requires any entity or person to notify the Comptroller's Office about and remit abandoned and unclaimed personal property, bank accounts and mineral proceeds by November 1 of each year. The penalty for failure to remit unclaimed property is 10 percent annual compounded interest on the value of the property.

The comptroller is required to publish notice of unclaimed property valued at \$50 or more in local newspapers and can send a notice of the unclaimed property to the last known address. The state safekeeps all unclaimed money and the proceeds from the sale of stock or personal property until claimed by the owner. The money is deposited in the general revenue fund, but records are kept in order for property to be redeemed.

The Office of State Treasurer was abolished on September 1, 1996, and all the powers and duties were transferred to the Comptroller's Office.

DIGEST: SB 700, as amended, would change the references from state treasurer to state comptroller in the unclaimed property laws and make technical changes in the unclaimed property fund law to reflect its status as a non-dedicated fund. The bill also would make other substantive changes to the unclaimed property laws. It would:

- give the comptroller a wide range of options to advertise unclaimed property rather than restricting notice to newspapers only;
- require that notice for unclaimed property only be made for property with a value of \$100 or more;
- allow the comptroller to schedule remittance of the contents of safety deposit boxes by property holders each year;
- require the venue for suits involving unclaimed property be brought in Travis County instead of the county where the property was deposited;
- allow the comptroller to charge a handling fee for returning unclaimed property valued at \$100 or more, rather than the current \$50;
- change the penalty for failure to remit unclaimed property from 10 percent compounded interest to 10 percent simple interest and impose a new penalty of five percent of the value of property due if the property was not delivered on time, increasing an additional five percent if unclaimed property was not delivered 30 days after the due date;
- prohibit unclaimed property from becoming part of the bankruptcy estate of a holder; and
- give the comptroller the right to obtain federal unclaimed tax refunds belonging to Texans in the possession of the federal government.

The bill would take effect September 1, 1997.

SUPPORTERS
SAY:

SB 700 would make numerous changes to the unclaimed property laws to make implementation of the laws more efficient, flexible and fair. The bill would also save the state hundreds of thousands of dollars a year by requiring that annual public notification of unclaimed property be made for property valued at \$100 or more, instead of \$50 or more. The state now pays between \$600,000 and \$700,000 a year to place unclaimed property notices in newspapers.

The bill would make the unclaimed property law conform to the funds consolidation law enacted in 1995, which removed the dedicated-fund status of the unclaimed property fund. The fund is no longer dedicated and the revenues now go into the general revenue fund, although a separate accounting is made to keep track of the unclaimed property funds.

The bill would change the penalties for not remitting unclaimed property to the state on time by allowing 10 percent simple interest, instead of 10 percent compounded interest, and would add five percent late penalties depending on when the property was remitted. The 10 percent compounded interest assessed unclaimed property holders could be too onerous at times. This change would provide incentive to remit the property, while providing fair penalties.

SB 700 also would give the comptroller flexibility in charging a handling fee to unclaimed property owners, instead of requiring a fee be paid no matter how small the claim, and provide other options to advertise unclaimed property besides newspapers. The comptroller could use finder firms and maintain an unclaimed property web site on the Internet.

By requiring the venue for unclaimed property be in Travis County, the bill would save the state the unnecessary expenses involved in attending a trial in another part of the state.

The bill would enhance the possibility of obtaining unclaimed federal tax refunds by creating a state property interest in the funds. Unclaimed federal tax refunds are kept by the federal government even though the money belongs to the taxpayer. The federal government makes little attempt to return the money to the taxpayer. If the funds were obtained by the state, then every effort would be made to find the rightful owner.

SB 700
House Research Organization
page 4

OPPONENTS
SAY: No apparent opposition.

NOTES: The committee amendment would add a schedule for receipt of safe deposit boxes, continue alphabetical order for the list of unclaimed property owners, and create a state property interest in unclaimed tax refunds held by the federal government.