

SUBJECT: Amending the reporting, delivery, and claims of unclaimed property

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 8 ayes — C. Turner, Hefner, Cain, Lambert, Ordaz Perez, Patterson,
Shine, S. Thompson

0 nays

1 absent — Crockett

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Bryant Clayton, Texas Comptroller
of Public Accounts)

BACKGROUND: Property Code Title 6 allows the comptroller to manage unclaimed property in the state. Under sec. 72.101, personal property is presumed abandoned if, for longer than three years, the location of the owner is unknown and a claim on the property has not been asserted, according to the holder of the property.

Ch. 74 governs the report, delivery, and claims process for unclaimed property. The individual holding the property must mail notice that the holder has the property to the last known address of the owner. Unclaimed property must then be reported and delivered to the comptroller on the following July 1. The statute also describes the processes by which the comptroller may sell unclaimed property and by which a person may claim the property.

Insurance Code ch. 1109 governs unclaimed life insurance and annuity contract proceeds. Under sec. 1109.051, an insurance company must annually report unclaimed proceeds to the comptroller by the following November 1.

DIGEST: HB 1514 would revise several statutory provisions regarding the reporting, delivery, and claims process for certain unclaimed property.

Statutory applicability. HB 1514 would expand the applicability of Property Code ch. 74, which governs the report, delivery, and claims process of unclaimed property, to include:

- property presumed abandoned under Finance Code ch. 154, regarding prepaid funeral services;
- unclaimed life insurance and annuity contract proceeds under Insurance Code ch. 1109; or
- any other law requiring a person to report and deliver unclaimed property to the comptroller.

The bill also would repeal certain provisions of Insurance Code ch. 1109, which governs the reporting and administration of unclaimed proceeds.

The bill would specify that tangible or intangible personal property was not subject to Property Code ch. 72, which governs the abandonment of personal property, if it was:

- a worthless or non-freely transferable security; or
- a firearm.

Reporting, notice requirements. HB 1514 would allow the clerk of a court that ordered the payment of certain shares of estate to the comptroller to provide the copy of the court order by certified mail or email, rather than by personal service of citation.

The bill would require the holder of property that was presumed abandoned to send notice to the last known address of the property owner by 60 days before the property was delivered to the comptroller, rather than the following May 1. The holder could send the notice by email.

The bill would require an insurer to report and deliver unclaimed proceeds

of a life insurance policy, annuity contract, or retained asset account, to the comptroller under Property Code ch. 74, rather than reporting the proceeds in a separate annual report. This provision would apply only to a report due on or after September 1, 2021.

Comptroller authority. HB 1514 would allow the comptroller to sell or otherwise liquidate a security delivered as unclaimed property. The comptroller could not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. A security not listed on an established exchange could be sold by any commercially reasonable method.

The bill would specify that the comptroller could destroy or dispose of unclaimed property after an investigation if it was not marketable.

The bill would allow the comptroller to waive penalty or interest on delinquent property for good cause.

Property claims. HB 1514 would require all property claims to identify the specific property being claimed and include all necessary documentation the comptroller could require.

If the reported owner of property died testate, or with a will, the comptroller could approve the claim of the appropriate legal beneficiaries of the owner as provided by a valid last will and testament that had not been accepted into probate or filed as a muniment of title, if:

- the amount of the property was less than \$10,000; and
- the beneficiaries named in the will were the same individuals who would inherit the property if the owner had died intestate.

If the reported owner died intestate, or without a will, the comptroller could approve the claim of certain legal heirs of the owner or the court-appointed dependent administrator of the owner's estate.

If the reported owner was a corporation that had been dissolved or

liquidated, the comptroller could approve the claim of the corporation's bankruptcy estate representative or other person authorized by federal law or an order of a bankruptcy court to act on behalf of the bankruptcy estate.

The bill would specify that the comptroller could approve the claim of a person holding a durable power of attorney of a person who was medically incapacitated.

The comptroller could waive the requirement of filing a claim and pay or deliver property directly to a person who did not file a claim if:

- the person receiving the property was the reported owner;
- the comptroller reasonably believed the person was entitled to receive the property or payment; and
- the property had a value below \$5,000.

Claim appeals. HB 1514 would specify that a person filing a claim to appeal the decision of the comptroller on a property claim would first provide notice of intent to file the appeal. The appeal could be filed if the comptroller did not reach a decision on the claim within 60 days of receiving the notice. The appeal would have to be made within one year of the claim being filed.

Recovered property agreements. HB 1514 would allow an agreement to assist a claimant in the recovery of unclaimed property to be enforceable only if the agreement:

- clearly stated the nature of the property and the services to be provided;
- was signed by or on behalf of the claimant; and
- stated the amount or value of the property reasonably expected to be recovered, computed before and after a fee or compensation had been deducted.

The bill would specify that a person who informed a potential claimant that they could be entitled to unclaimed property could not receive from

the claimant an amount exceeding 10 percent of the property's value, plus reasonable attorney's fees necessary to pursue the claim.

Other provisions. To the extent of any conflict, this bill would prevail over another bill of the 87th Legislature, Regular Session, relating to nonsubstantive additions to and corrections in enacted codes.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS
SAY:

HB 1514 would update provisions of state law relating to unclaimed property by clarifying the comptroller's authority and certain ambiguous processes.

The bill would align certain reporting and administrative requirements for all unclaimed property types under the same statute, preventing duplicative reports. Currently, insurance companies must file two annual unclaimed property reports depending on the type of property.

The comptroller would have expanded authority in waiving reporting deadlines and penalties for late reports under the bill. This would give the state more flexibility in waiving these requirements in cases of emergency, such as natural disasters. The bill also would make managing unclaimed property more efficient by specifying that the comptroller could sell unclaimed securities and dispose of property that could not be auctioned.

The bill would clarify the process to claim property. Claims would have to meet minimum requirements, and an agreement between a claimant and a third party would have to disclose the amount of the claim and the fee, protecting claimants. By providing clarity on what constituted a valid claim, the bill also would provide clear conditions under which a claimant could file an appeal, addressing certain issues arising from recent litigation.

The bill would clarify that certain types of property, such as worthless securities, should not be reportable as unclaimed property since they are difficult or uneconomical to manage. Firearms would be exempted as well because they present safety issues for state employees who may be untrained but required to receive loaded firearms. The comptroller also does not have a mechanism to sell or dispose of unclaimed firearms.

**CRITICS
SAY:**

HB 1514 may deny some Texans the right to claim their property from the state by excluding worthless securities and firearms from the unclaimed property process under the Property Code. A person should be able to recover securities, even if they were considered to have no market value, as well as their firearms.

NOTES:

According to the fiscal note, the bill could result in an indeterminate increase in payment of unclaimed properties, but the amount and timing of the increase are unknown. The fiscal impact of allowing the comptroller to use the proceeds of certain unclaimed property to invest also cannot be determined.