

BILL ANALYSIS

Senate Research Center
82R29549 E

C.S.H.B. 257
By: Hilderbran, Harper-Brown (Patrick)
Finance
5/17/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 257 amends current law relating to certain unclaimed property that is presumed abandoned.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 72.101(a), Property Code, as follows:

(a) Provides that, except as provided by this section and Sections 72.1015 (Unclaimed Wages), 72.1016 (Stored Value Card), 72.1017, and 72.102 (Traveler's Check and Money Order), 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. Amends Subchapter B, Chapter 72, Property Code, by adding Section 72.1017, as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) Defines, in this section, "utility" and "utility deposit."

(b) Provides that, notwithstanding Section 73.102 (Checks), a utility deposit is presumed abandoned on the latest of:

- (1) 18 months after the date a refund check for the utility deposit was payable to the owner of the deposit;
- (2) 18 months after the date the utility last received documented communication from the owner of the utility deposit; or
- (3) 18 months after the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

(c) Provides that a utility deposit is not presumed abandoned for two years from the time the depositor provides documentation to the utility of being called to

active military service in any branch of the United States armed forces during any part of the period described by Subsection (b).

SECTION 3. Amends Section 72.102(c), Property Code, as follows:

(c) Provides that a money order to which Subsection (a) applies is presumed to be abandoned on the latest of:

(1) the third, rather than seventh, anniversary of the date on which the money order was issued;

(2) the third, rather than seventh, anniversary of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order; or

(3) the third, rather than seventh, anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

SECTION 4. Amends Section 72.103, Property Code, to prohibit charges, if a holder imposes service, maintenance, or other charges on a money order prior to the time of presumed abandonment, from exceeding the amount of \$1, rather than 50 cents, per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

SECTION 5. Amends Section 73.101, Property Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that an account or safe deposit box is presumed abandoned under certain conditions, including, except as provided by Subsection (c), the account or safe deposit box has been inactive for at least five years as determined under Subsection (b) (relating to an account and a safe deposit box becoming inactive).

(c) Provides that, if the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Subsection (b)(1) (relating to an account becoming inactive).

SECTION 6. Amends Section 74.101(a), Property Code, to require each holder who on March 1, rather than on June 30, holds property that is presumed abandoned under Chapter 72 (Abandonment of Personal Property), 73 (Property Held by Financial Institutions), or 75 (Texas Minerals) of this code or under Chapter 154 (Prepaid Funeral Services), Finance Code, to file a report of that property on or before the following July 1, rather than November 1.

SECTION 7. Amends Section 74.1011(a), Property Code, as follows:

(a) Requires a holder who on March 1, rather than on June 30, holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, except as provided by Subsection (b) (Notice by Property Holder Required), on or before the following May 1, rather than August 1, to mail to the last known address of the known owner written notice stating that:

(1) the holder is holding the property; and

(2) the holder may be required to deliver the property to the comptroller on or before July 1, rather than November 1, if the property is not claimed.

SECTION 8. Amends Sections 74.301(a) and (c), Property Code, as follows:

(a) Requires each holder who on March 1, rather than on June 30, holds property that is presumed abandoned under Chapter 72, 73, or 75, except as provided by Subsection (c),

to deliver the property to the comptroller on or before the following July 1, rather than November 1 accompanied by the report required to be filed under Section 74.101 (Property Report).

(c) Authorizes the comptroller of public accounts (comptroller), if the property subject to delivery under Subsection (a) is the contents of a safe deposit box, to instruct a holder to deliver the property on a specified date before July 1, rather than November 1, of the following year.

SECTION 9. Amends Section 74.601(e), Property Code, to authorize the comptroller on receipt or from time to time, rather than from time to time, to sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities.

SECTION 10. Amends Section 74.708, Property Code, to provide that a holder who on March 1, rather than June 30, holds property presumed abandoned under Chapters 72, 73, 74 (Report, Delivery, and Claims Process), or 75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty.

SECTION 11. Provides that a charge imposed on a money order under Section 72.103 (Preservation of Property), Property Code, by a holder before the effective date of this Act is governed by the law applicable to the charge immediately before the effective date of this Act, and the holder may retain the charge.

SECTION 12. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2011.

(b) Effective date, Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and 74.708, Property Code, as amended by this Act: January 1, 2013.