

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1514
By: Landgraf (Zaffirini)
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Comptroller of Public Accounts of the State of Texas (comptroller) manages the Texas unclaimed property program under Title 6 of the Texas Property Code. Since 1963, Texas law has required institutions, businesses, and governmental entities to report to the state any personal property that has been unclaimed for up to five years, depending on the property in question.

A comptroller recommendation, H.B. 1514 would make updates and clarifications to the statutes governing the unclaimed property program to reduce administrative burden, improve effectiveness and efficiency, and eliminate ambiguities.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 1514 amends current law relating to the administration of unclaimed property.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Comptroller of Public Accounts of the State of Texas is rescinded in SECTION 18 (Section 1109.053, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 551.005(b), Estates Code, as follows:

(b) Requires the clerk of a court that orders an executor or administrator to pay funds to the Comptroller of Public Accounts of the State of Texas (comptroller) under Section 551.001 (Payment of Certain Shares of Estate to State) to provide to, rather than serve on, the comptroller, by certified mail or e-mail, rather than by personal service of citation, a certified copy of the court order not later than the fifth day after the date the order is issued.

SECTION 2. Amends Section 1109.013(c), Insurance Code, as follows:

(c) Requires an insurer to report and deliver unclaimed proceeds to the comptroller as required by Chapter 74 (Report, Delivery, and Claims Process), Property Code, rather than Section 1109.051 (Company Report of Unclaimed Proceeds).

SECTION 3. Amends Section 72.001, Property Code, by adding Subsection (a-1), to provide that tangible or intangible personal property is not subject to Chapter 72 (Abandonment of Personal Property) if it is a worthless or non-freely transferable security.

SECTION 4. Amends Section 74.001(a), Property Code, as follows:

(a) Provides that, except as provided by Section 74.001 (Applicability), rather than except as provided by Subsection (b) (relating to an exemption for certain holders of property from Chapter 74), this chapter applies to:

(1) creates this subdivision from existing text and makes nonsubstantive changes;

- (2) property that is presumed abandoned under Chapter 154 (Prepaid Funeral Services), Finance Code;
- (3) unclaimed proceeds under Chapter 1109 (Unclaimed Life Insurance and Annuity Contract Proceeds), Insurance Code; or
- (4) any other law requiring a person to report and deliver property to the comptroller under this chapter.

SECTION 5. Amends Section 74.101(a), Property Code, to require each holder who on March 1 holds property to which Chapter 74 applies, rather than property that is presumed abandoned under Chapter 72, 73 (Property Held by Financial Institutions), or 75 (Texas Minerals) of this code or under Chapter 154, Finance Code, to file a report of that property on or before the following July 1.

SECTION 6. Amends Sections 74.1011(a), (b), and (b-1), Property Code, as follows:

- (a) Requires a holder, except as provided by Subsection (b), who on March 1 holds property to which Chapter 74 applies that is valued at more than \$250 to, not later than the 60th day before the date the property is delivered to the comptroller, provide to the owner by, rather than on or before the following May 1, mail to the last known address of the owner or by e-mail written notice stating certain information. Makes conforming and nonsubstantive changes.
- (b) Provides that the notice required under Subsection (a) does not apply to a holder who meets certain criteria, including a holder who does not have a record of a physical or e-mail address for the property owner or any other person entitled to the property.
- (b-1) Requires the holder, if an owner has designated a representative for notice under Section 72.1021 (Shares of Mutual Fund; Designation of Representative for Notice) or 73.103 (Designation of Representative for Notice), to mail or e-mail the written notice required under Subsection (a) to the representative in addition to providing written notice, rather than mailing the notice, to the owner.

SECTION 7. Amends Section 74.301(a), Property Code, to require, except as provided by Subsection (c) (relating to delivery of abandoned property in a safe deposit box to the comptroller), each holder who on March 1 holds property to which Chapter 74 applies, rather than property that is presumed abandoned under Chapter 72, 73, or 75, to deliver the property to the comptroller on or before the following July 1 accompanied by the report required to be filed under Section 74.101 (Property Report).

SECTION 8. Amends Section 74.401(d), Property Code, to authorize the comptroller to destroy or otherwise dispose of the property at any time if, after investigation, the comptroller determines that property delivered under Chapter 74 is not marketable or has insubstantial commercial value, rather than determines that property delivered from a safe deposit box or other repository has insubstantial commercial value.

SECTION 9. Amends Subchapter E, Chapter 74, Property Code, by adding Section 74.405, as follows:

- Sec. 74.405. DISPOSITION OF SECURITIES. (a) Authorizes the comptroller to sell or otherwise liquidate a security delivered to the comptroller under this chapter.
- (b) Prohibits the comptroller from selling a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. Authorizes the comptroller to sell a security not listed on an established exchange by any commercially reasonable method.

SECTION 10. Amends Sections 74.501(c), (d), and (f), Property Code, as follows:

(c) Requires that all claims to which Subchapter F (Claim for Delivered Property), Chapter 74, rather than Section 74.501 (Claim Filed With Comptroller), applies identify the specific property in the possession of the comptroller that is being claimed, include all necessary documentation the comptroller is authorized to require, and, except as provided by Section 74.503, be filed in accordance with procedures, contain the information, and be on forms prescribed by the comptroller.

(d) Authorizes the comptroller, on receipt of a claim form and all necessary documentation the comptroller may require, or as may be appropriate under the circumstances, to approve the claim of:

(1) makes no changes to this subdivision;

(2) if the reported owner died testate:

(A) and (B) makes nonsubstantive changes to these paragraphs; or

(C) the appropriate legal beneficiaries of the owner as provided by a valid last will and testament of the owner that has not been accepted into probate or filed as a muniment of title, if the amount of the property being claimed is less than \$10,000, and the beneficiaries named in the will are the same persons who would inherit the property if the owner had died intestate;

(3) if the reported owner died intestate:

(A) the legal heirs of the owner as provided by certain sections, including Section 201.003 (Community Estate of an Intestate), Estates Code;

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

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

(4) the legal heirs of the reported owner as established by a determination, rather than an affidavit, of heirship order signed by a judge of the county probate court or by a county judge;

(5) and (6) makes no changes to these subdivisions;

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

(A) and (B) makes no changes to these paragraphs;

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

(D) makes no changes to this paragraph; or

(8) makes no changes to this subdivision.

(f) Authorizes the comptroller, notwithstanding Subsection (e) (relating to prohibiting the comptroller from paying to certain persons a claim to which Section 74.501 applies), to approve the claim of:

(1) the attorney general or other Title IV-D agency, as defined by Section 101.033 (Title IV-D Agency), Family Code, for child support arrearages owed by the

reported owner of the property that are reflected in a child support lien notice that complies with Section 157.313 (Contents of Child Support Lien Notice), Family Code; or

(2) a person holding a durable power of attorney of a person who is medically incapacitated.

Deletes existing text authorizing a claim under this subsection to be submitted by the lienholder or the attorney general on behalf of the lienholder. Makes nonsubstantive changes.

SECTION 11. Reenacts Section 74.501(e), Property Code, as amended by Chapters 267 (S.B. 1420) and 897 (H.B. 3598), Acts of the 86th Legislature, Regular Session, 2019, and amends it to create an exception to the prohibition against the comptroller paying a claim of certain persons under Subsection (d)(7) (relating to authorizing the comptroller to approve the claim of the reported owner of a corporation that has been dissolved or liquidated).

SECTION 12. Amends Subchapter F, Chapter 74, Property Code, by adding Section 74.503, as follows:

Sec. 74.503. WAIVER OF CLAIM REQUIREMENT. Authorizes the comptroller to waive the requirement of filing a claim and pay or deliver property directly to a person who does not file a claim if the person receiving the property is the reported owner of the property, the comptroller reasonably believes the person is entitled to receive the property or payment, and the property has a value of less than \$5,000.

SECTION 13. Amends Sections 74.506(a) and (b), Property Code, as follows:

(a) Authorizes a person who has filed a claim that complies with Section 74.501(c) to appeal the decision of the comptroller on the claim before the 61st day after the day on which it was rendered. Deletes existing text authorizing a person aggrieved by the decision of a claim filed under this subchapter to appeal the decision before the 61st day after the day on which it was rendered.

(b) Authorizes a claimant, if a claim that complies with Section 74.501(c) has not been decided before the 91st day after the day on which it was filed, to file an appeal if, after the claimant provides notice by certified mail to the comptroller of the intent to file an appeal, the comptroller does not reach a decision on the claim on or before the 60th day after the date the notice is delivered to the comptroller. Requires that an appeal under Section 74.506 (Appeal) be made within one year of the date the claim was filed, rather than within the 60-day period beginning on the 91st day after the day of filing.

SECTION 14. Amends the heading to Section 74.507, Property Code, to read as follows:

Sec. 74.507. ASSISTANCE OF CLAIMANT; FEE FOR RECOVERY.

SECTION 15. Amends Section 74.507, Property Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a person who informs a potential claimant that the claimant may be entitled to claim certain property from contracting for or receiving from the claimant for services an amount that exceeds 10 percent of the value of the property recovered, plus reasonable attorney's fees necessary to pursue the claim, rather than an amount that exceeds 10 percent of the value of the property recovered.

(c) Provides that an agreement to assist a claimant in the recovery of property that is reportable to the comptroller, that has been reported to the comptroller, or that is in the possession of the comptroller under this chapter is enforceable only if the agreement clearly states the nature of the property and the services to be provided, is signed by or on behalf of the claimant, and states the amount or value of the property reasonably expected

to be recovered, computed before and after a fee or other compensation has been deducted.

SECTION 16. Amends Section 74.601(e), Property Code, as follows:

(e) Authorizes the comptroller to use the proceeds from the sale of securities delivered under Chapter 74 to buy, exchange, invest, or reinvest in marketable securities. Deletes existing text authorizing the comptroller, on receipt or from time to time, to sell securities, including stocks, bonds, and mutual funds, received under Chapter 74 or any other statute requiring the delivery of unclaimed property to the comptroller and to use the proceeds to buy, exchange, invest, or reinvest in marketable securities.

SECTION 17. Amends Section 74.707(a), Property Code, to authorize the comptroller to waive penalty or interest, in whole or in part, imposed on delinquent property if the comptroller determines that the holder has made a good faith effort to comply with Chapters 72-75, or for other good cause.

SECTION 18. Repealer: Section 1109.013(d) (relating to the requirement that a life insurance company deliver unclaimed proceeds to the comptroller), Insurance Code.

Repealer: Section 1109.101 (Public Notice of Unclaimed Proceeds), Insurance Code.

Repealers: Subchapters B (Delivery of Proceeds to State) and D (Claims for Proceeds), Chapter 1109, Insurance Code.

SECTION 19. Makes application of Section 1109.013(c), Insurance Code, as amended by this Act, prospective.

SECTION 20. Provides that, to the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 21. Effective date: upon passage or September 1, 2021.