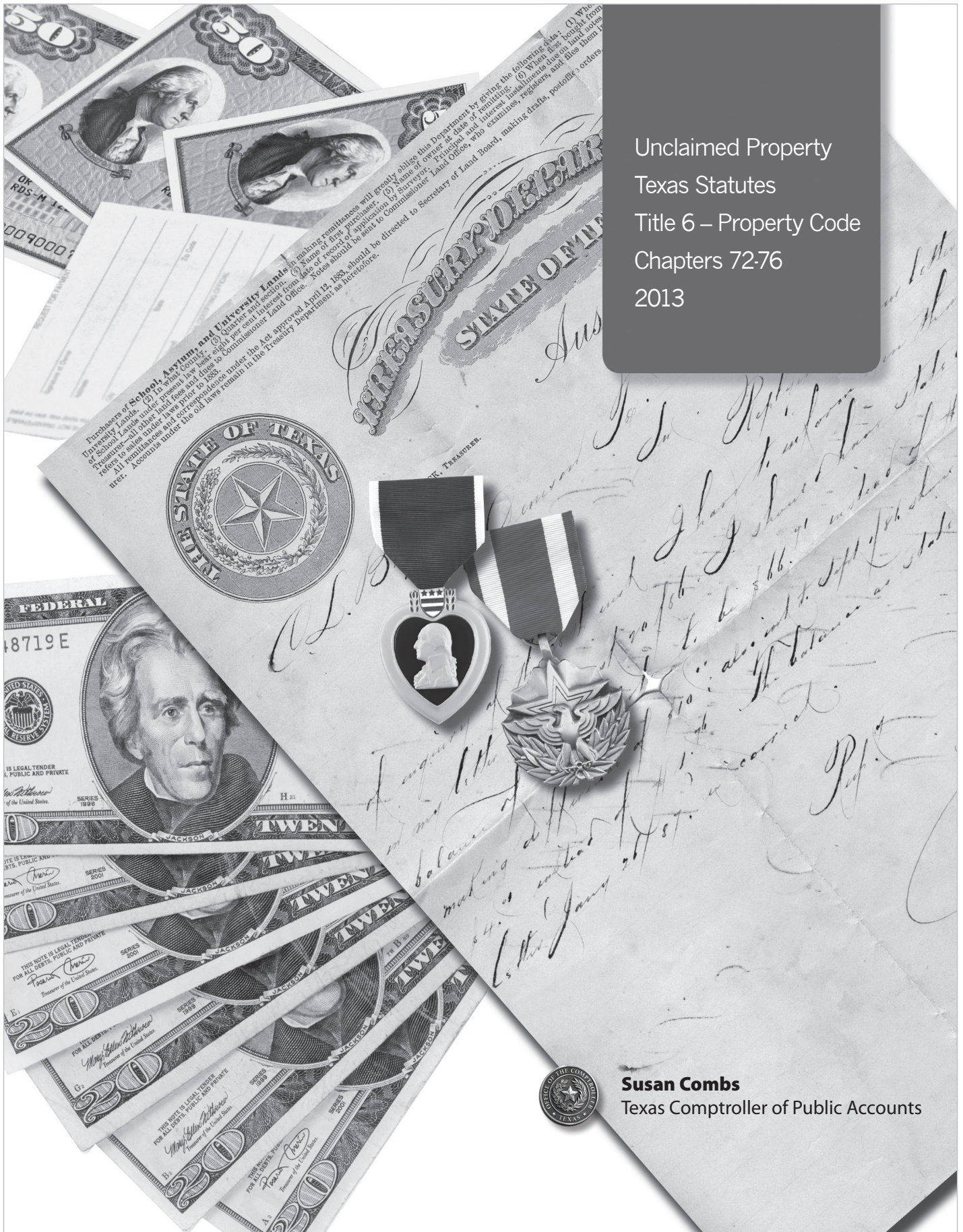





Susan Combs
 Texas Comptroller
 of Public Accounts

Unclaimed Property
 Texas Statutes
 Title 6 – Property Code
 Chapters 72-76
 2013





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**Susan Combs**
Texas Comptroller of Public Accounts

Texas Property Code

Title 6.

Unclaimed Property

Chapters 72-76

This publication presents the Texas Property Code, Title 6, Chapters 72-76, governing unclaimed property in Texas. Chapters 72-75 require holders to report and remit abandoned property to the Texas Comptroller of Public Accounts.

Chapter 76 requires counties, cities, school districts and junior colleges to report and remit abandoned property valued at \$100 or less to their treasurer. Property valued over \$100 must be reported and remitted to the Comptroller's office in accordance with Chapters 72-75.

Chapter 76 also requires each city, county, school district and junior college to develop an unclaimed property program for the reporting, delivery, public notification, claims processing, enforcement and accounting of this locally reported unclaimed property.

If you have any questions concerning your reporting obligations, please contact the Holder Reporting Section at (800) 321-2274, option 5 or up.holder@cpa.state.tx.us.

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CHAPTER 72

Abandonment of Personal Property



Subchapter A. General Provisions

Section 72.001. Application of Chapter

- (a) Tangible or intangible personal property is subject to this chapter if it is covered by Section 72.101 and:
- (1) the last known address of the apparent owner, as shown on the records of the holder, is in this state;
 - (2) the records of the holder do not disclose the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this state;
 - (3) the records of the holder do not disclose the last known address of the apparent owner, and it is established that:
 - (A) the last known address of the person entitled to the property is in this state; or
 - (B) the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;
 - (4) the last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or is in a state in which the State's escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of this state;
- (5) the last known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or
- (6) the transaction out of which the property arose occurred in this state and:
- (A) the last known address of the apparent owner or other person entitled to the property is:
 - (i) unknown; or
 - (ii) in a state that does not provide by law for the escheat or custodial taking of the property or in a state in which the State's escheat or unclaimed property law is not applicable to the property; and
 - (B) the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or a state in which the State's escheat or unclaimed property law is not applicable to the property.
- (b) This chapter supplements other chapters in this title, and each chapter shall be followed to the extent applicable.
- (c) This chapter applies to property held by life insurance companies with the exception of unclaimed proceeds to which Chapter 1109, Insurance Code, applies and that are held by companies that are subject to Chapter 1109, Insurance Code.

- (d) A holder of property presumed abandoned under this chapter is subject to the procedures of Chapter 74.
- (e) In this chapter, a holder is a person, wherever organized or domiciled, who is:
 - (1) in possession of property that belongs to another;
 - (2) a trustee; or
 - (3) indebted to another on an obligation.
- (f) In this chapter, a corporation shall be deemed to be a domiciliary of the state of its incorporation.

[Sections 72.002-72.100 reserved for expansion]

Subchapter B.

Presumption of Abandonment

Section 72.101. Personal Property Presumed Abandoned

- (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.
- (b) (1) The three-year period leading to a presumption of abandonment of stock or another intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, commences on the first date that either a sum payable as a result of the ownership interest is unclaimed by the owner or a communication to the owner is returned undelivered by the United States Postal Service.
- (2) The running of the three-year period of abandonment ceases immediately on the exercise of an act of ownership by the owner regarding the ownership interest or sum payable or a communication with the association as evidenced by a memorandum or other record on file with the association or its agents.
- (3) At the time an ownership interest is presumed abandoned under this section, any sum then held for or owing to the owner as a result of the interest and not previously presumed abandoned is presumed abandoned.
- (4) Any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the ownership interest is subject to the presumption of abandonment as provided by this section.
- (c) Property distributable in the course of a demutualization or related reorganization of an insurance company is presumed abandoned on the first anniversary of the date the property becomes distributable if, at the time of the first distribution, the last known address of the owner according to the records of the holder of the property is known to be incorrect or the distribution or statements related to the distribution are returned by the post office as undeliverable and the owner has not:
 - (1) communicated in writing with the holder of the property or the holder's agent regarding the interest; or
 - (2) otherwise communicated with the holder regarding the interest as evidenced by a memorandum or other record on file with the holder or its agents.
- (d) Property distributable in the course of a demutualization or related reorganization of an insurance company that is not subject to Subsection (c) is presumed abandoned as otherwise provided by this section.

Section 72.1015. Unclaimed Wages

- (a) In this section, "wages" has the meaning assigned by Section 61.001, Labor Code.
- (b) An amount of unclaimed wages is presumed abandoned if, for longer than one year:

- (1) the existence and location of the person to whom the wages are owed is unknown to the holder of the wages; and
- (2) according to the knowledge and records of the holder of the wages, a claim to the wages has not been asserted or an act of ownership of the wages has not been exercised.

Section 72.1016. Stored Value Card

- (a) This section applies to a stored value card, as defined by Section 604.001, Business & Commerce Code, other than a card:
 - (1) to which Chapter 604, Business & Commerce Code, does not apply by operation of Sections 604.002(1)(A) and (C) and 604.002(2)-(5) of that code; or
 - (2) that is linked to and draws its value solely from a deposit account subject to Chapter 73.
- (b) If the existence and location of the owner of a stored value card is unknown to the holder of the property, the stored value card is presumed abandoned to the extent of its unredeemed and uncharged value on the earlier of:
 - (1) the card's expiration date;
 - (2) the third anniversary of the date the card was issued, if the card is not used after it is issued, or the date the card was last used or value was last added to the card; or
 - (3) the first anniversary of the date the card was issued, if the card is not used after it is issued, or the date the card was last used or value was last added to the card, if the card's value represents wages, as defined by Section 61.001, Labor Code.
- (c) If the person who sells or issues a stored value card in this state does not obtain the name and address of the apparent owner of the card and maintain a record of the owner's name and address and the identification number of the card, the address of the apparent owner is considered to be the Austin, Texas, address of the comptroller.
- (d) A person may charge a fee against a stored value card as provided by Chapter 604, Business & Commerce Code. A fee may not be charged against a stored

value card after the card is presumed abandoned under this section.

- (e) The comptroller shall transfer five percent of the money collected from cards presumed to be abandoned for use as grants under Subchapter M, Chapter 56, Education Code.
- (f) This section does not create a cause of action against a person who issues or sells a stored value card.

Section 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) the first anniversary of the date a refund check for the utility deposit was payable to the owner of the deposit;
 - (2) the first anniversary of the date the utility last received documented communication from the owner of the utility deposit; or
 - (3) the first anniversary of 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) 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 72.102. Traveler's Checks and Money Orders

- (a) A traveler's check or money order is not presumed to be abandoned under this chapter unless:
 - (1) the records of the issuer of the check or money order indicate that it was purchased in this state;

- (2) the issuer's principal place of business is in this state and the issuer's records do not indicate the state in which the check or money order was purchased; or
 - (3) the issuer's principal place of business is in this state, the issuer's records indicate that the check or money order was purchased in another state, and the laws of that state do not provide for the escheat or custodial taking of the check or money order.
- (b) A traveler's check to which Subsection (a) applies is presumed to be abandoned on the latest of:
- (1) the 15th anniversary of the date on which the check was issued;
 - (2) the 15th anniversary of the date on which the issuer of the check last received from the owner of the check communication concerning the check; or
 - (3) the 15th anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the check.
- (c) A money order to which Subsection (a) applies is presumed abandoned on the latest of:
- (1) the third anniversary of the date on which the money order was issued;

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

Section 72.103. Preservation of Property

Notwithstanding any other provision of this title except a provision of this section or Section 72.1016 relating to a money order or a stored value card, a holder of abandoned property shall preserve the property and may not at any time, by any procedure, including a deduction for service, maintenance, or other charge, transfer or convert to the profits or assets of the holder or otherwise reduce the value of the property. For purposes of this section, value is determined as of the date of the last transaction or contact concerning the property, except that in the case of a money order, value is determined as of the date the property is presumed abandoned under Section 72.102(c). If a holder imposes service, maintenance, or other charges on a money order prior to the time of presumed abandonment, such charges may not exceed the amount of \$1 per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

CHAPTER 73

Property Held by Financial Institutions



Subchapter A. General Provisions

Section 73.001. Definitions and Application of Chapter

- (a) In this chapter:
- (1) “Account” means funds deposited with a depository in an interest-bearing account, a checking or savings account, or funds received by a depository in exchange for the purchase of a stored value card.
 - (2) “Depositor” means a person who has an ownership interest in an account.
 - (3) “Owner” means a person who has an ownership interest in a safe deposit box.
 - (4) “Holder” means a depository.
 - (5) “Check” includes a draft, cashier’s check, certified check, registered check, or similar instrument.
- (b) This chapter supplements other chapters in this title, and each chapter shall be followed to the extent applicable.
- (c) Any property, other than an account, check, or safe deposit box, held by a depository is subject to the abandonment provisions of Chapter 72.
- (d) A holder of accounts, checks, or safe deposit boxes presumed abandoned under this chapter is subject to the procedures of Chapter 74.

Section 73.002. Depository

For the purposes of this chapter, a depository is a bank, savings and loan association, credit union, or other banking organization that:

- (1) receives and holds a deposit of money or the equivalent of money in banking practice or other personal property in this state; or
- (2) receives and holds such a deposit or other personal property in another state for a person whose last known residence is in this state.

Section 73.003. Preservation of Inactive Account or Safe Deposit Box

- (a) A depository shall preserve an account that is inactive and the contents of a safe deposit box that is inactive. The depository may not, at any time, by any procedure, including the imposition of a service charge, transfer or convert to the profits or assets of the depository or otherwise reduce the value of the account or the contents of such a box. For purposes of this subsection, value is determined as of the date the account or safe deposit box becomes inactive.
- (b) An account is inactive if for more than one year there has not been a debit or credit to the account because of an act by the depositor or an agent of the depositor, other than the depository, and the depositor has not communicated with the depository. A safe deposit box is inactive if the rental on the box is delinquent.
- (c) This section does not affect the provisions of Subchapter B, Chapter 59, Finance Code.

[Sections 73.004-73.100 reserved for expansion]

Subchapter B.

Presumption of Abandonment

Section 73.101. Inactive Account or Safe Deposit Box Presumed Abandoned

- (a) An account or safe deposit box is presumed abandoned if:
- (1) 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);
 - (2) the location of the depositor of the account or owner of the safe deposit box is unknown to the depository; and
 - (3) the amount of the account or the contents of the box have not been delivered to the comptroller in accordance with Chapter 74.

- (b) For purposes of Subsection (a)(1):
- (1) an account becomes inactive beginning on the date of the depositor's last transaction or correspondence concerning the account; and
 - (2) a safe deposit box becomes inactive beginning on the date a rental was due but not paid.
- (c) 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).

Section 73.102. Checks

A check is presumed to be abandoned on the latest of:

- (1) the third anniversary of the date the check was payable;
- (2) the third anniversary of the date the issuer or payor of the check last received documented communication from the payee of the check; or
- (3) the third anniversary of the date the check was issued if, according to the knowledge and records of the issuer 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.

CHAPTER 74

Report, Delivery, and Claims Process



Subchapter A. Applicability

Section 74.001. Applicability

- (a) Except as provided by Subsection (b), this chapter applies to a holder of property that is presumed abandoned under Chapter 72, Chapter 73, or Chapter 75.
- (b) This chapter does not apply to a holder of property subject to Chapter 76.

[Sections 74.002-74.100 reserved for expansion]

Subchapter B. Report and Delivery of Property

Section 74.101. Property Report

- (a) Each holder who on March 1 holds property that is presumed abandoned under Chapter 72, 73, or 75, of this code or under Chapter 154, Finance Code, shall file a report of that property on or before the following July 1. The comptroller may require the report to be in a particular format, including a format that can be read by a computer.
- (b) Repealed
- (c) The property report must include, if known by the holder:
 - (1) the name, social security number, driver's license or state identification number, e-mail address and the last known address of:

- (A) each person who, from the records of the holder of the property, appears to be the owner of the property; or

- (B) any person who is entitled to the property;

- (2) a description of the property, the identification number, if any, and, if appropriate, a balance of each account, except as provided by Subsection (d);

- (3) the date that the property became payable, demandable, or returnable;

- (4) the date of the last transaction with the owner concerning the property; and

- (5) other information that the comptroller by rule requires to be disclosed as necessary for the administration of this chapter.

- (d) Amounts due that individually are less than \$50 may be reported in the aggregate without furnishing any of the information required by Subsection (c).

Section 74.1011. Notice by Property Holder Required

- (a) Except as provided by Subsection (b), a holder who on March 1 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, shall, on or before the following May 1, 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 if the property is not claimed.

- (b) The notice required under Subsection (a) does not apply to a holder who:
- (1) has already provided such notice to the owner of the property or a person entitled to the property under existing federal law, rules, and regulations or state law within the time specified under Subsection (a); or
 - (2) does not have a record of an address for the property owner or any other person entitled to the property.
- (c) A holder that provides notice under this section may charge the cost of the postage as a service charge against the property.
- (3) the balance of each account, if appropriate.
 - (b) The record must be kept for 10 years from the date on which the property is reportable, regardless of whether the property is reported in the aggregate under Section 74.101.
 - (c) The comptroller may by rule provide for a shorter period for keeping a record required by this section.
 - (d) The comptroller may determine the liability of a holder required to file a property report under Section 74.101 using the best information available to the comptroller if the records of the holder are unavailable or incomplete for any portion of the required retention period.

Section 74.102. Signed Statement

- (a) The person preparing a property report shall provide with each copy of the report a statement signed by:
- (1) the individual holding the reported property;
 - (2) a partner, if the holder is a partnership;
 - (3) an officer, if the holder is an unincorporated association or a private corporation; or
 - (4) the chief fiscal officer, if the holder is a public corporation.
- (b) The statement must include the following sentence:
“This report contains a full and complete list of all property held by the undersigned that, from the knowledge and records of the undersigned, is abandoned under the laws of the State of Texas.”
- (c) The comptroller may adopt rules or policies relating to the signature requirement, as the comptroller determines appropriate, to maximize the use of future developments in electronic filing technology.

Section 74.103. Retention of Records

- (a) A holder required to file a property report under Section 74.101 shall keep a record of:
- (1) the name, the social security number, if known, and the last known address of each person who, from the records of the holder of the property, appears to be the owner of the property;
 - (2) a brief description of the property, including the identification number, if any; and

Section 74.104. Confidentiality of Property Report

- (a) Except as provided by Section 74.201, 74.203, or 74.307, a property report filed with the comptroller under Section 74.101 is confidential until the second anniversary of the date the report is filed.
- (b) The social security number of an owner that is provided to the comptroller is confidential.

Subchapter C .

Notice by Comptroller

Section 74.201. Required Notice

- (a) Except as provided by Section 74.202, the comptroller may use one or more methods as necessary to provide the most efficient and effective notice to each reported owner in the calendar year immediately following the year in which the report required by Section 74.101 is filed. The notice must be provided:
- (1) in the county of the property owner’s last known address; or
 - (2) in the county in which the holder has its principal place of business or its registered office for service in this state, if the property owner’s last address is unknown.
- (b) The notice must state that the reported property is presumed abandoned and subject to this chapter and must contain:

- (1) the name and city of last known address of the reported owner;
 - (2) a statement that, by inquiry, any person possessing a legal or beneficial interest in the reported property may obtain information concerning the amount and description of the property; and
 - (3) a statement that the person may present proof of the claim and establish the person's right to receive the property.
- (c) Deleted by Acts 1997, 75th Leg., Ch. 1037, Sec. 21, eff. Sep. 1, 1997.
- (d) The comptroller may offer for sale space for suitable advertisements in a notice published under this section.

Section 74.202. Notice for Item with Value of Less Than \$100

In the notice required by Section 74.201, the comptroller is not required to publish information regarding an item having a value that is less than \$100 unless the comptroller determines that publication of that information is in the public interest.

Section 74.203. Authorized Notice

- (a) During the calendar year immediately following the year in which the report required by Section 74.101 is filed, notice may be mailed to each person who has been reported with a Texas address and appears to be entitled to the reported property.
- (b) The notice under Subsection (a) must conform to the requirements for notice under Section 74.201(b).

Section 74.205. Charge for Notice

The comptroller may charge the following against the property delivered under this chapter:

- (1) expenses incurred for the publication of notice required by Section 74.201; and
- (2) the amount paid in postage for the notice to the owner required by Section 74.203.

[Sections 74.206-74.300 reserved for expansion]

Subchapter D. Delivery

Section 74.301. Delivery of Property to Comptroller

- (a) Except as provided by Subsection (c), each holder who on March 1 holds property that is presumed abandoned under Chapter 72, 73, or 75, shall 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.
- (b) If the property subject to delivery under Subsection (a) is stock or some other intangible ownership interest in a business association for which there is no evidence of ownership, the holder shall issue a duplicate certificate or other evidence of ownership to the comptroller at the time delivery is required under this section.
- (c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July 1 of the following year.

Section 74.3011. Delivery of Money to Rural Scholarship Fund

- (a) Notwithstanding and in addition to any other provision of this chapter or other law, a local telephone exchange company may deliver reported money to a scholarship fund for rural students instead of delivering the money to the comptroller as prescribed by Section 74.301.
- (b) A local telephone exchange company may deliver the money under this section only to a scholarship fund established by one or more local telephone exchange companies in this state to enable needy students from rural areas to attend college, technical school, or other postsecondary educational institution.
- (c) A local telephone exchange company shall file with the comptroller a verification of money delivered under this section that complies with Section 74.302.
- (d) A claim for money delivered to a scholarship fund under this section must be filed with the local telephone exchange company that delivered the

money. The local telephone exchange company shall forward the claim to the administrator of the scholarship fund to which the money was delivered. The scholarship fund shall pay the claim if the fund determines in good faith that the claim is valid. A person aggrieved by a claim decision may file a suit against the fund in a district court in the county in which the administrator of the scholarship fund is located in accordance with Section 74.506.

- (e) The comptroller shall prescribe forms and procedures governing this section, including forms and procedures relating to:
 - (1) notice of presumed abandoned property;
 - (2) delivery of reported money to a scholarship fund; and
 - (3) filing of a claim.
- (f) In this section, “local telephone exchange company” means a telecommunications utility certificated to provide local exchange service within the state and that is a telephone cooperative or has fewer than 50,000 access lines in service in this state.
- (g) During a state fiscal year, the total amount of money that may be transferred by all local telephone exchange companies under this section may not exceed \$800,000. The comptroller shall keep a record of the total amount of money transferred annually. When the total amount of money transferred during a state fiscal year equals the amount allowed by this subsection, the comptroller shall notify each local telephone exchange company that the company may not transfer any additional money to the company’s scholarship fund during the remainder of that state fiscal year.

Section 74.3012. Delivery of Money to Urban Scholarship Fund

- (a) Notwithstanding and in addition to any other provision of this chapter or other law, a local exchange company may deliver reported money to a scholarship fund for urban students instead of delivering the money to the comptroller as prescribed by Section 74.301.
- (b) A local exchange company may deliver the money under this section only to a scholarship fund established by one or more local exchange companies

in this state to enable needy students from urban areas to attend college, technical school, or another postsecondary educational institution.

- (c) A local exchange company shall file with the comptroller a verification of money delivered under this section that complies with Section 74.302.
- (d) A claim for money delivered to a scholarship fund under this section must be filed with the local exchange company that delivered the money. The local exchange company shall forward the claim to the administrator of the scholarship fund to which the money was delivered. The scholarship fund shall pay the claim if the fund determines in good faith that the claim is valid. A person aggrieved by a claim decision may file a suit against the fund in a district court in the county in which the administrator of the scholarship fund is located in accordance with Section 74.506.
- (e) The comptroller shall prescribe forms and procedures governing this section, including forms and procedures relating to:
 - (1) notice of presumed abandoned property;
 - (2) delivery of reported money to a scholarship fund; and
 - (3) filing of a claim.
- (f) In this section, “local exchange company” means a telecommunications utility certificated to provide local exchange telephone service within the state and that has 50,000 or more access lines in service in this state and is not a telephone cooperative.
- (g) During each state fiscal year, the total amount of money that may be transferred by all local exchange companies under this section may not exceed the total amount of money transferred to rural scholarship funds under Section 74.3011 during the previous state fiscal year. The comptroller shall keep a record of the total amount of money transferred annually. If the total amount of money transferred during a state fiscal year equals the amount allowed by this subsection, the comptroller shall notify each local exchange company that the company may not transfer any additional money to the company’s scholarship fund during the remainder of that state fiscal year.

Section 74.3013. Delivery of Money for Rural Scholarship, Economic Development, and Energy Efficiency Assistance

- (a) Notwithstanding and in addition to any other provision of this chapter or other law, a nonprofit cooperative corporation may deliver reported money to a scholarship fund for rural students, to stimulate rural economic development, or to provide energy efficiency assistance to members of electric cooperatives, instead of delivering the money to the comptroller as prescribed in Section 74.301.
- (b) A nonprofit cooperative corporation may deliver the money under this section only:
- (1) to a scholarship fund established by one or more nonprofit cooperative corporations in this state to enable students from rural areas to attend college, technical school, or other postsecondary educational institution;
 - (2) to an economic development fund for the stimulation and improvement of business and commercial activity for economic development in rural communities; and
 - (3) to an energy efficiency assistance fund to assist members of an electric cooperative in reducing their energy consumption and electricity bills.
- (c) A nonprofit cooperative corporation shall file with the comptroller a verification of money delivered under this section that complies with Section 74.302.
- (d) A claim for money delivered under this section must be filed with the nonprofit cooperative corporation that delivered the money. A nonprofit cooperative corporation shall forward the claim to the administrator of the fund to which the money was delivered. The fund shall pay the claim if the fund determines in good faith that the claim is valid. A person aggrieved by a claim decision may file a suit against the fund in a district court in the county in which the administrator of the fund is located in accordance with Section 74.506.
- (e) The comptroller shall prescribe forms and procedures governing this section, including forms and procedures relating to:
- (1) notice of presumed abandoned property;
 - (2) delivery of reported money to a scholarship, economic development fund, or energy efficiency fund;
 - (3) filing of a claim; and
 - (4) procedures to allow equitable opportunity for participation by each nonprofit cooperative corporation in the state.
- (f) During a state fiscal year the total amount of money that may be transferred by all nonprofit cooperative corporations under this section may not exceed \$2 million. No more than 20 percent of each nonprofit cooperative's funds eligible for delivery under this section shall be used for economic development. The comptroller shall adopt procedures to record the total amount of money transferred annually.
- (g) Nonprofit cooperative corporations may combine funds from other sources with any funds delivered under this section. In addition, such cooperatives may engage in other business and commercial activities, in their own behalf or through such subsidiaries and affiliates as deemed necessary, in order to provide and promote educational opportunities and to stimulate rural economic development.
- (h) In this section, a nonprofit cooperative corporation means a cooperative corporation organized under Chapters 51 and 52, Agriculture Code, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), the Cooperative Association Act (Article 1396-50.01, Vernon's Texas Civil Statutes), and Chapter 161, Utilities Code.

Section 74.302. Statement of Delivered Property

- (a) Property delivered under Section 74.301 must be accompanied by a statement that:
- (1) the property delivered is a complete and correct remittance of all accounts subject to this chapter in the holder's possession;
 - (2) the existence and location of the listed owners are unknown to the holder; and
 - (3) the listed owners have not asserted a claim or exercised an act of ownership with respect to the owner's reported property.

- (b) The statement required by Subsection (a) shall be signed by:
- (1) the individual holding the reported property;
 - (2) a partner, if the holder is a partnership;
 - (3) an officer, if the holder is an unincorporated association or a private corporation; or
 - (4) the chief fiscal officer, if the holder is a public corporation.
- (2) the holder delivering the property was not a fiduciary then in breach of trust with respect to the property and had a reasonable basis for believing based on the facts then known to the holder that the property was abandoned or inactive for purposes of this chapter; and
- (3) there is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry.

Section 74.304. Responsibility after Delivery

- (a) If reported property is delivered to the comptroller, the state shall assume custody of the property and responsibility for its safekeeping.
- (b) A holder who delivers property to the comptroller in good faith is relieved of all liability to the extent of the value of the property delivered for any claim then existing, that may arise after delivery to the comptroller, or that may be made with respect to the property.
- (c) If the holder delivers property to the comptroller in good faith and, after delivery, a person claims the property from the holder or another state claims the property under its laws relating to escheat or unclaimed property, the attorney general shall, on written notice of the claim, defend the holder against the claim, and the holder shall be indemnified from the unclaimed money received under this chapter or any other statute requiring delivery of unclaimed property to the comptroller against any liability on the claim.
- (d) The comptroller is not, in the absence of negligence or mishandling of the property, liable to the person who claims the property for damages incurred while the property or the proceeds from the sale of the property are in the comptroller's possession. But in any event the liability of the state is limited to the extent of the property delivered under this chapter and remaining in the possession of the comptroller at the time a suit is filed.
- (e) For the purposes of this section, payment or delivery is made in good faith if:
- (1) payment or delivery was made in a reasonable attempt to comply with this chapter;
- (f) On delivery of a duplicate certificate or other evidence of ownership to the comptroller under Subsection (b) of Section 74.301, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate are relieved of all liability of every kind in accordance with this section to any person, including any person acquiring the original certificate or the duplicate of the certificate issued to the comptroller, for any losses or damages resulting to any person by the issuance and delivery to the comptroller of the duplicate certificate.

Section 74.306. Unclaimed Property Held by Federal Government

- (a) If the federal government enacts a law that provides for the discovery of unclaimed property held by the federal government and that provides or makes that information available to the states, the comptroller may pay to the federal government from the unclaimed money received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller the proportional share of the necessary cost of examining records.
- (b) If the federal government delivers unclaimed property to the comptroller, this state shall hold the federal government harmless from claims made by owners of the property after delivery.

Section 74.3061. Escheat of Funds in the Possession of the United States

- (a) In the event any money is due to a resident of this state in the nature of a refund, rebate, or other overpayment of taxes or fees to the United States with respect to which the resident is likely to have his rights to secure such refund or rebate barred by

a statute of limitations, or if for any reason at least three years has elapsed after the date on which the resident could have filed a timely claim for said refund or rebate, the comptroller is appointed agent of such resident to apply for said refund or rebate and is authorized to do any act which a natural person could do to recover said money. When the comptroller files an application or initiates any other proceeding to secure said refund or rebate, the comptroller is coupled with an interest in the money sought and money recovered. All property within this provision, including all principal and interest accruing thereon, is declared to have escheated and to have become the property of the state.

- (b) The funds escheated by the state pursuant to this provision shall be given notice as provided by Section 74.201. Title to any such property shall be transferred by the state to any persons who in accordance with Subchapter F can show that the property belonged to them immediately prior to the escheat or that they were heirs to those fund immediately prior to the escheat.

Section 74.307. List of Owners

- (a) The comptroller shall compile and revise each year, except as to amounts reported in the aggregate, an alphabetical list of the names and last known addresses of the owners listed in the reports and the amount credited to each account.
- (b) The comptroller shall make the list available for public inspection during all reasonable business hours.

Section 74.308. Period of Limitation Not a Bar

The expiration, on or after September 1, 1987, of any period specified by contract, statute, or court order, during which an action or proceeding may be initiated or enforced to obtain payment of a claim for money or recovery of property, does not prevent the money or property from being presumed abandoned property and does not affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the comptroller.

Section 74.309. Private Escheat Agreements Prohibited

An individual, corporation, business association, or other organization may not act through amendment of articles of incorporation, amendment of bylaws, private agreement, or any other means to take or divert funds of personal property into income, divide funds or personal property among locatable patrons or stockholders, or divert funds or personal property by any other method for the purpose of circumventing the unclaimed property process.

[Sections 74.310-74.400 reserved for expansion]

Subchapter E.

Disposition of Delivered Property

Section 74.401. Sale of Property

- (a) Except as provided by Subsection (c) or Section 74.404, the comptroller shall sell at public sale all personal property, other than money and marketable securities, delivered to the comptroller in accordance with Section 74.301. The comptroller shall conduct the sale in the city in this state that the comptroller determines affords the most favorable market for the particular property.
- (b) The comptroller shall sell the property to the highest bidder. If the comptroller determines that the highest bid is insufficient, the comptroller may decline that bid and offer the property for public or private sale.
- (c) The comptroller is not required to offer property for sale if the property belongs to a person with an address outside this state or the comptroller determines that the probable cost of the sale of the property exceeds its value.
- (d) If after investigation the comptroller determines that property delivered from a safe deposit box or other repository has insubstantial commercial value, the comptroller may destroy or otherwise dispose of the property at any time.
- (e) A person may not maintain any action or proceeding against the state, an officer of the state, or the holder of property because of an action taken by the comptroller under this section.

Section 74.402. Notice of Sale

Before the 21st day preceding the day on which a public sale is held under Section 74.401, the comptroller shall publish notice of the sale in a newspaper of general circulation in Travis County or in the county where the sale is to be held. If the public sale is to be held on the Internet or by an online auction, the comptroller may post the notice on the comptroller's own Web site before the seventh day preceding the date on which the sale or auction is held.

Section 74.403. Purchaser's Title

- (a) At a sale, public or private, of property that is held under this subchapter, the purchaser receives title to the purchased property free from all claims of the prior owner and prior holder of the property and all persons claiming through or under the owner or holder.
- (b) The comptroller shall execute all documents necessary to complete the transfer of title.

Section 74.404. Sale of Military Awards and Decorations Prohibited

- (a) In this section, "military award or decoration" means a military decoration for an act of valor, heroism, or exceptional service, a good conduct medal, a service medal, a service ribbon, or a badge, tab, certificate, or letter awarded in connection with military service.
- (b) A military award or decoration delivered to the comptroller under this chapter:
 - (1) may not be sold under Section 74.401 or destroyed; and
 - (2) shall be delivered by the comptroller to the adjutant general's department.
- (c) The adjutant general's department shall conduct a reasonable search of public records to locate the person to whom the military award or decoration was awarded. If the department cannot locate the person, the department shall attempt to locate the person's next of kin. If the department locates the person or the person's next of kin, the department shall deliver the award or decoration to the person or the person's next of kin, as applicable.

- (d) If the adjutant general's department cannot locate the person to whom a military award or decoration was awarded or the person's next of kin, the award or decoration shall be held in trust for the comptroller at:
 - (1) a museum established by the department; or
 - (2) if no museum exists, any other public facility designated by the department.
- (e) Except as provided by this subsection, a military award or decoration held in trust by a museum or facility designated under Subsection (d) shall be used in a display or exhibit that honors persons who have served the state or nation in military service. If the museum or facility cannot practically incorporate the award or decoration into an established display or exhibit of the museum or facility, the award or decoration shall be kept in a secure storage area or loaned to another museum for use in a display or exhibit that honors persons who have served the state or nation in military service.
- (f) This section does not affect a person's right to claim a military award or decoration under Subchapter F.

[Sections 74.405-74.500 reserved for expansion]

Subchapter F. Claim for Delivered Property

Section 74.501. Claim Filed with Comptroller

- (a) The comptroller shall review the validity of each claim filed under this section.
- (b) If the comptroller determines that a claim is valid, the comptroller or the comptroller's authorized agent shall approve the claim. If the claim is for money and has been approved under this section, the comptroller shall pay the claim. If a claim is for personal property other than money and has been approved under this section, the comptroller shall deliver the property to the claimant unless the comptroller has sold the property. If the property has been sold under Section 74.401, the comptroller shall pay to the claimant the proceeds from the sale.

- (c) All claims to which this section applies must be filed in accordance with procedures, contain the information, and be on forms prescribed by the comptroller.
- (d) On receipt of a claim form and all necessary documentation and as may be appropriate under the circumstances, the comptroller may approve the claim of:
- (1) the reported owner of the property;
 - (2) if the reported owner died testate:
 - (A) the appropriate legal beneficiaries of the owner as provided by the last will and testament of the owner that has been accepted into probate or filed as a muniment of title; or
 - (B) the executor of the owner's last will and testament who holds current letters testamentary;
 - (3) if the reported owner died intestate:
 - (A) the legal heirs of the owner as provided by Section 38, Texas Probate Code; or
 - (B) the court-appointed administrator of the owner's estate;
 - (4) the legal heirs of the reported owner as established by an affidavit of heirship order signed by a judge of the county probate court or by a county judge;
 - (5) if the reported owner is a minor child or an adult who has been adjudged incompetent by a court of law, the parent or legal guardian of the child or adult;
 - (6) if the reported owner is a corporation:
 - (A) the president or chair of the board of directors of the corporation, on behalf of the corporation; or
 - (B) any person who has legal authority to act on behalf of the corporation;
 - (7) if the reported owner is a corporation that has been dissolved or liquidated:
 - (A) the sole surviving shareholder of the corporation, if there is only one surviving shareholder;
 - (B) the surviving shareholders of the corporation in proportion to their ownership of the corporation, if there is more than one surviving shareholder;
 - (C) the corporation's bankruptcy trustee; or
 - (D) the court-ordered receiver for the corporation; or
 - (8) any other person that is entitled to receive the unclaimed property under other law or comptroller policy.
- (e) Except as provided by Subsection (f), the comptroller may not pay to the following persons a claim to which this section applies:
- (1) a creditor, a judgment creditor, a lienholder, or an assignee of the reported owner or of the owner's heirs; or
 - (2) a person holding a power of attorney from the reported owner or the owner's heirs.
- (f) The comptroller may approve a claim for child support arrearages owed by the reported owner of the property and reflected in a child support lien notice that complies with Section 157.313, Family Code. A claim under this subsection may be submitted by the lienholder or the attorney general on behalf of the lienholder.

Section 74.502. Claim Filed with Holder

- (a) If a claim is filed with a holder under this section and the holder determines in good faith that the claim is valid, the holder may pay the amount of the claim.
- (b) The comptroller shall reimburse the holder for a valid claim paid under this section.
- (c) The request from a holder for reimbursement must be filed in accordance with procedures and on forms prescribed by the comptroller.

Section 74.504. Hearing

- (a) The comptroller may hold a hearing and receive evidence concerning a claim filed under this subchapter.
- (b) If the comptroller considers that a hearing is necessary to determine the validity of a claim, the comptroller shall sign the statement of the findings

and the decision on the claim. The statement shall report the substance of the evidence heard and the reasons for the decision. The statement is a public record.

- (c) If the comptroller determines that a claim is valid, the comptroller shall approve and sign the claim.

Section 74.506. Appeal

- (a) A person aggrieved by the decision of a claim filed under this subchapter may appeal the decision before the 61st day after the day on which it was rendered.
- (b) If a claim has not been decided before the 91st day after the day on which it was filed, the claimant may appeal within the 60-day period beginning on the 91st day after the day of filing.
- (c) An appeal under this section must be made by filing suit against the state in a district court in Travis County, Texas. The State's immunity from suit without consent is abolished with respect to suits brought under this section.
- (d) A court shall try an action filed under this section de novo and shall apply the rules of practice of the court.

Section 74.507. Fee for Recovery

- (a) A person who informs a potential claimant that the claimant may be entitled to claim property that is reportable to the comptroller under this chapter, that has been reported to the comptroller, or that is in the possession of the comptroller may not contract for or receive from the claimant for services an amount that exceeds 10 percent of the value of the property recovered. If the property involved is mineral proceeds, the amount for services may not include a portion of the underlying minerals or any production payment, overriding royalty, or similar payment.
- (b) The person who informs a potential claimant and by contract or other written agreement is to receive a percentage of the value of the property may not file or receive a form to claim on behalf of a claimant.

Section 74.508. Claim of Another State to Recover Property; Procedure

- (a) At any time after property has been paid or delivered to the comptroller under this chapter, another state may recover the property if:
- (1) the property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this chapter, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;
 - (2) the last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder are in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;
 - (3) the records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;
 - (4) the property was subjected to custody by this state under Subdivision (6) of Subsection (a) of Section 72.001 and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or
 - (5) the property is the sum payable on a traveler's check, money order, or other similar instrument that was subjected to custody by this state under Subdivision (4) and the instrument was purchased in the other state and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

- (b) The claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the comptroller, who shall decide the claim within 90 days after it is presented. The comptroller shall allow the claim if he determines that the other state is entitled to the abandoned property under Subsection (a).

Section 74.509. Handling Fee for Processing Unclaimed Property

A handling fee may be deducted from the amount of the claim payment if the payment is at least \$100.

[Sections 74.509-74.600 reserved for expansion]

Subchapter G.
Unclaimed Money

Section 74.601. Unclaimed Money

- (a) The comptroller shall maintain a record that documents unclaimed money received under this chapter or any other statute requiring delivery of unclaimed property to the comptroller.
- (b) The comptroller shall deposit to the credit of the general revenue fund:
- (1) all funds, including marketable securities, delivered to the comptroller under this chapter; or any other statute requiring the delivery of unclaimed property to the comptroller;
 - (2) all proceeds from the sale of any property, including marketable securities, under this chapter;
 - (3) all funds that have escheated to the state under Chapter 71, except that funds relating to escheated real property shall be deposited according to Section 71.202; and
 - (4) any income derived from investments of the unclaimed money.
- (c) The comptroller shall keep a separate record and accounting for delivered unclaimed property, other than money, before its sale.
- (d) Except as provided by Subsection (e), the comptroller shall from time to time invest the amount of unclaimed money in investments approved by law for the investment of state funds.
- (e) The comptroller on receipt or from time to time may 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. When making or selling the investments, the comptroller shall exercise the judgment and care of a prudent person.
- (f) The comptroller shall keep a separate record and accounting for securities delivered, sold, purchased, or exchanged and the proceeds and earnings from the securities.
- (g) If an owner does not assert a claim for unclaimed money and the owner is reported to be the state or a state agency, the comptroller may deposit the unclaimed money to the credit of the general revenue fund. The comptroller may establish procedures and adopt rules as necessary to implement this subsection.

Section 74.602. Use of Money

Except as provided by Section 381.004, Local Government Code, the comptroller shall use the unclaimed money received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller to pay the claims of persons or states establishing ownership of property in the possession of the comptroller under this chapter or under any other unclaimed property or escheat statute.

Section 74.603. Audit; Appropriation

The unclaimed money received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller is subject to audit by the State Auditor and to appropriation by the legislature for enforcing and administering this title.

[Sections 74.604-74.700 reserved for expansion]

Subchapter H. Enforcement

Section 74.701. Rules

The comptroller may adopt rules necessary to carry out this title.

Section 74.702. Examination of Records

- (a) To enforce this chapter and to determine whether reports have been made as required by this chapter, the comptroller, the attorney general, or an authorized agent of either, at any reasonable time, may examine the books and records of any holder.
- (b) The comptroller, the attorney general, or an agent of either may not make public any information obtained by an examination made under this section and may not disclose that information except in the course of a judicial proceeding, authorized by this chapter, in which the state is a party or pursuant to an agreement with another state allowing joint audits or the exchange of information obtained under this section.

Section 74.703. Additional Personnel

- (a) The comptroller and the attorney general may employ, in the office of either official, additional personnel necessary to enforce this title.
- (b) The salary rate of additional personnel may not exceed the rate paid to other state employees for similar services.
- (c) The salaries of additional personnel shall be paid in accordance with Section 74.602.

Section 74.704. Assistance in Enforcement

If the comptroller or the attorney general requests, the State Auditor, Banking Commissioner of Texas, securities commissioner, commissioner of insurance, savings and loan commissioner, Credit Union Commission, Department of Public Safety of the State of Texas, or any district or county attorney shall assist the comptroller or attorney general in enforcing this title.

Section 74.705. Interest

- (a) A holder who fails to pay or deliver property within the time prescribed by this chapter shall pay to

the comptroller interest, at an annual rate of 10 percent, on the property from the date the property should have been paid or delivered until the date the property is actually paid or delivered.

- (b) A person is exempt from payment of interest under Subsection (a) if the person's action or omission is in connection with the person's official duties as an officer or employee or a political subdivision of this state.

Section 74.706. Penalty

- (a) A penalty equal to five percent of the value of the property due shall be imposed on a holder who fails to pay or deliver property within the time prescribed by this chapter. If a holder fails to pay or deliver property before the 31st day after the date the property is due, an additional penalty equal to five percent of the value of the property due shall be imposed.
- (b) For purposes of Subsection (a), "holder" does not include a local governmental entity or an officer or employee of a local governmental entity who is performing the officer's or employee's official duties for the local governmental entity.

Section 74.707. Waiver or Abatement of Penalty or Interest

- (a) The comptroller may waive penalty or interest imposed on delinquent property if the comptroller determines that the holder has made a good faith effort to comply with Chapters 72-75.
- (b) The comptroller may provide for periods during which a holder of delinquent property may report and remit the unclaimed property without paying a penalty or interest.
- (c) The comptroller may waive penalty and interest imposed on delinquent property if the holder delivering the property was required to deliver the property on or before November 1, 1997.

Section 74.708. Property Held in Trust

A holder who on March 1 holds property presumed abandoned under Chapters 72-75 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. A holder

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

Section 74.709. Suit to Compel Delivery of Property and Civil Penalties

- (a) On request of the comptroller, the attorney general shall bring an action in district court, in the name of the state, to compel a holder to deliver property or to file a property report.
- (b) Venue for a suit brought under this section is in Travis County.
- (c) The fact that a suit seeks enforcement of this section from more than one holder is not grounds for an objection concerning misjoinder of parties or causes of action.
- (d) When introduced into evidence, the verified property report, unless rebutted, is sufficient evidence that the property is abandoned and subject to delivery under this chapter and for entry of a judgment transferring custody of the property to the comptroller.
- (e) The attorney general, on behalf of the comptroller, may recover reasonable attorney's fees from the holder in addition to recovery of any unclaimed property accrued or a penalty or interest due.
- (f) In addition to a penalty or interest assessed on delinquent property, a holder who fails to pay or deliver property or who fails to file a property report within the time prescribed by this chapter is subject to a civil penalty not to exceed \$100 for each day of violation.

Section 74.710. Criminal Offense

- (a) A holder commits an offense if the holder willfully violates this chapter, including:
 - (1) failing to file a report in accordance with this chapter;
 - (2) failing to pay or deliver property in accordance with this chapter; or
 - (3) refusing to permit examination of records in accordance with this chapter.
- (b) An offense under this section is a Class B misdemeanor.

CHAPTER 75

TEXAS MINERALS

Subchapter A.

Applicability

Section 75.001. Definitions; Application of Chapter

- (a) In this chapter:
- (1) “Mineral” means oil, gas, uranium, sulphur, lignite, coal, and any other substance that is ordinarily and naturally considered a mineral in this state, regardless of the depth at which the oil, gas, uranium, sulphur, lignite, coal, or other substance is found.
 - (2) “Mineral proceeds” includes:
 - (A) all obligations to pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and joint operating agreements; and
 - (B) all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.
 - (3) “Holder” means a person, wherever organized or domiciled, who is:
 - (A) in possession of property that belongs to another;
 - (B) a trustee; or
 - (C) indebted to another on an obligation.
- (b) This chapter applies to mineral proceeds and the owner’s underlying right to receive those mineral proceeds if:
- (1) the owner’s underlying right to receive mineral proceeds is related to land located in this state;

- (2) the mineral proceeds result from the production of minerals located in this state; or
 - (3) the mineral proceeds are an obligation for the acquisition or retention of a mineral lease to produce minerals located in this state.
- (c) A holder of property presumed abandoned under this chapter is subject to the procedures of Chapter 74.
- (d) This chapter supplements other chapters in this title, and each chapter shall be followed to the extent applicable.

Section 75.002. Transfer and Purchase of Mineral Interest on Mineral Proceeds

A person purchasing mineral proceeds of an owner whose name has been reported or is reportable to the comptroller shall provide documentation required by the comptroller to substantiate that the transfer is executed by the reported owner or the reported owner’s legal agent.

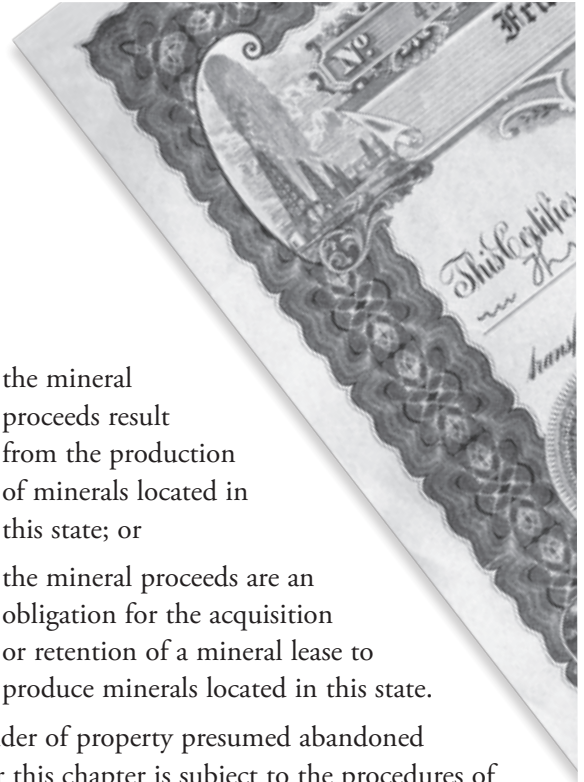
[Sections 75.003-75.100 reserved for expansion]

Subchapter B.

Presumption of Abandonment

Section 75.101. Presumption of Abandonment

- (a) All mineral proceeds that are held or owing by the holder and that have remained unclaimed by the owner for longer than three years after they became payable or distributable and the owner’s underlying right to receive those mineral proceeds are presumed abandoned.



- (b) At the time any owner's underlying right to receive mineral proceeds is presumed abandoned under this section, any mineral proceeds then held for or owing to the owner as a result of the underlying right and any mineral proceeds accruing after that time as a result of the underlying right and not previously presumed abandoned are presumed abandoned.

Section 75.102. Preservation of Property

A holder of abandoned property shall preserve that property and may not by any procedure, including a deduction for service, maintenance, or other charge, transfer, convert, or reduce the property to the profits or assets of the holder.

CHAPTER 76

Report, Delivery, and Claims Process for Certain Property



Subchapter A. General Provisions

Section 76.001. Applicability

- (a) This chapter applies only to the holder of property if:
- (1) the holder is a:
 - (A) school district;
 - (B) municipality;
 - (C) county;
 - (D) junior college that has, in the manner described by Subsection (b), opted to handle property described by Subdivision (2) in accordance with this chapter; and
 - (2) the property is:
 - (A) presumed abandoned under Chapter 72 or 75; and
 - (B) valued at \$100 or less.
- (b) This chapter applies to a junior college only if the governing board of the junior college takes formal action to opt to handle property described by Subsection (a)(2) in accordance with this chapter.

Section 76.002. Officers and Representatives

In this chapter:

- (1) a reference to the treasurer of a holder includes a person performing the duties of the treasurer of a holder in a school district, municipality, or county in which the office of treasurer does not exist; and
- (2) a reference to the chief fiscal officer of a holder includes a person performing the

duties of the chief fiscal officer of a holder in a school district, municipality, or county in which the office of chief fiscal officer does not exist; and

- (3) a reference to the attorney for a holder includes an attorney designated by the governing body of the holder to represent the holder.

Subchapter B. Property Report

Section 76.101. Property Report

- (a) Each holder who on June 30 holds property subject to this chapter shall file a report of that property on or before the following November 1. Each report shall be filed with the treasurer of the holder as provided by this section and on forms prescribed by the treasurer of the holder.
- (b) A holder required by Subsection (a) to file a report shall file a report each successive year regardless of whether the holder has any reportable property on June 30 of the year in which the report is filed.

Section 76.102. Verification

- (a) The person preparing a property report shall place at the end of each copy of the report a verification made under oath and executed by the chief fiscal officer of the holder, as designated by the holder.
- (b) The verification must include the following sentence: "This report contains a full and complete list of all property held by the undersigned that, from the knowledge and records of the undersigned, is abandoned under the laws of the State of Texas."

Section 76.103. Retention of Records

- (a) The holder required to file a property report shall keep a record of:
 - (1) the name and last known address of each person who, from the records of the holder, appears to be the owner of the property;
 - (2) a brief description of the property, including the identification number of the account, if any; and
 - (3) the balance of each account, if appropriate.
- (b) The record must be kept until the 10th anniversary of the date on which the property is reportable.
- (c) The treasurer of the holder may provide for a shorter period for keeping a record required by this section.

Section 76.104 Confidentiality of Property Report

- (a) Except as provided by this chapter, a property report filed with the treasurer of the holder is confidential until the second anniversary of the date the report is filed.
- (b) Notwithstanding other law, the social security number of an owner that is reported to the treasurer of the holder is confidential.

Sections 76.105-76.200 Reserved for Expansion

Subchapter C. Notice

Section 76.201. Published Notice

- (a) Except as provided by Subsections (b) and (e), the treasurer of a holder shall publish a notice in a newspaper in the calendar year immediately following the year in which the property report is filed. The newspaper must be a newspaper of general circulation in the jurisdiction of the holder.
- (b) The treasurer of the holder may use a method of publishing notice that is different from that prescribed by Subsection (a) if the treasurer determines that the different method would be as likely as the prescribed method to give actual notice to the person required to be named in the notice.

- (c) The published notice must state that the reported property is presumed abandoned and subject to this chapter and must contain:
 - (1) a statement that, by addressing an inquiry to the treasurer of the holder, any person possessing a legal or beneficial interest in the reported property may obtain information concerning the amount of the property; and
 - (2) a statement that the owner may present proof of the claim to the treasurer of the holder and establish the owner's right to receive the property.
- (d) The treasurer of a holder may offer for sale space for suitable advertisements in a notice published under this section. Proceeds from the sale of the advertising space shall be used to defray the cost of publishing the notices, with the remaining amount, if any, to be deposited to the credit of the unclaimed money fund.
- (e) In the notice required by this section, the treasurer of the holder may publish other information regarding property if the treasurer determines that publication of that information is in the public interest.

Section 76.202. Notice to Owner

- (a) During the calendar year immediately following the year in which the property report is filed, the treasurer of the holder may mail a notice to each person who has an address in this state and appears to be entitled to the reported property.
- (b) The notice must contain:
 - (1) a statement that property is being held by the treasurer of the holder to which the addressee appears to be entitled; and
 - (2) a statement that the owner may present proof of the claim to the treasurer of the holder and establish the owner's right to receive the property.

Section 76.203. Notice that Accounts are Subject to this Chapter

Publication of notice in accordance with Section 76.201 is notice to the owner by the holder that the reported property is subject to this chapter.

Section 76.204. Charge for Notice

The treasurer of the holder may charge the following against the property delivered under this chapter:

- (1) expenses incurred for the publication of notice required by Section 76.201; and
- (2) the amount paid in postage for the notice to the owner required by Section 76.202.

Sections 76.205-76.300 Reserved for Expansion

Subchapter D. Delivery

Section 76.301. Delivery of Property to Treasury

- (a) Each holder who on June 30 holds property that is subject to this chapter shall deliver the property to the treasurer of the holder on or before the following November 1 accompanied by the property report.
- (b) If the property subject to delivery under Subsection (a) is stock or some other intangible ownership interest in a business association for which there is no evidence of ownership, the holder shall issue a duplicate certificate or other evidence of ownership to the treasurer of the holder at the time delivery is required under this section.

Section 76.302. Verification of Delivered Property

- (a) Property delivered under Section 76.301 must be accompanied by a verification under oath that:
 - (1) the property delivered is a complete and correct remittance of all accounts subject to this chapter in the holder's possession;
 - (2) the existence and location of the listed owners are unknown to the holder; and
 - (3) the listed owners have not asserted a claim or exercised an act of ownership with respect to the owner's reported property.
- (b) The verification required by Subsection (a) shall be signed by the chief fiscal officer of the holder, as designated by the holder.

Section 76.303. List of Owners

- (a) The treasurer of the holder shall compile and revise each year an alphabetical list of names and last

known addresses of the owners listed in the reports and the amount credited to each account.

- (b) The treasurer of the holder shall make the list available for public inspection during all reasonable business hours.

Sec. 76.304. Period of Limitation Not a Bar

The expiration of any period specified by statute or court order, during which an action or proceeding may be initiated or entered to obtain payment of a claim for money, does not prevent the money from being presumed abandoned property and does not affect any duty to file a report required by this chapter or to deliver abandoned property to the treasurer of the holder.

Sections 76.305-76.400 Reserved for Expansion

Subchapter E. Disposition of Delivered Property

Section 76.401. Sale of Property

- (a) Except as provided by Subsection (c), the treasurer of the holder shall sell at public sale all personal property, other than money and marketable securities, delivered to the treasurer of the holder in accordance with Section 76.301. The treasurer of the holder shall conduct the sale in the holder's jurisdiction.
- (b) The treasurer of the holder shall sell the property to the highest bidder. If the treasurer of the holder determines that the highest bid is insufficient, the treasurer of the holder may decline that bid and offer the property for public or private sale.
- (c) The treasurer of the holder is not required to offer property for sale if the property belongs to a person with an address outside this state or the treasurer of the holder determines that the probable cost of the sale of the property exceeds its value.
- (d) If after investigation the treasurer of the holder determines that property delivered has insubstantial commercial value, the treasurer of the holder may destroy or otherwise dispose of the property at any time.

- (e) A person may not maintain any action or proceeding against the state, an officer of the state, or the holder of property because of an action taken by the treasurer of the holder under this section.

Section 76.402. Notice of Sale

Before the 21st day before the day on which a public sale is held under Section 76.401, the treasurer of the holder shall publish notice of the sale in a newspaper of general circulation in the county where the sale is to be held.

Section 76.403. Purchaser's Title

- (a) At a sale, public or private, of property that is held under this subchapter, the purchaser receives title to the purchased property free from all claims of the prior owner and prior holder of the property and all persons claiming through or under the owner or holder.
- (b) The treasurer of the holder shall execute all documents necessary to complete the transfer of title.

Sections 76.404-76.500 Reserved for Expansion

Subchapter F. Claim for Delivered Property

Section 76.501. Filing of Claim

- (a) A claim for property delivered to the treasurer of the holder under this chapter must be filed with the treasurer of the holder.
- (b) All claims to which this section applies must be filed in accordance with procedures and on forms prescribed by the treasurer of the holder.

Section 76.502. Consideration of Claim

The treasurer of the holder shall consider the validity of each claim filed under this subchapter.

Section 76.503. Hearing

- (a) The treasurer of the holder may hold a hearing and receive evidence concerning a claim filed under this subchapter.
- (b) If the treasurer of the holder considers that a hearing is necessary to determine the validity of a claim, the treasurer of the holder shall sign the statement of the

findings and the decision on the claim. The statement shall report the substance of the evidence heard and the reasons for the decision. The statement is a public record.

- (c) If the treasurer of the holder determines that a claim is valid, the treasurer of the holder shall approve and sign the claim.

Section 76.504. Payment of Claim

- (a) If a claim has been approved under this subchapter, the treasurer of the holder shall pay the claim.
- (b) If a claim is for personal property other than money and has been approved under this subchapter, the treasurer of the holder promptly shall deliver the property to the claimant unless the treasurer of the holder has sold the property. If the property has been sold under Section 76.401, the treasurer of the holder shall pay to the claimant the proceeds from the sale.
- (c) Costs of publication and postage shall be deducted from the amounts paid under this section, but deductions for any costs of administration or service charges may not be made.

Section 76.505. Appeal

- (a) A person aggrieved by the decision on a claim filed under this subchapter may appeal the decision before the 61st day after the date the decision was rendered.
- (b) If a claim has not been decided before the 91st day after the date the claim was filed, the claimant may appeal within the 60-day period beginning on the 91st day after the date of filing.
- (c) An appeal under this section must be made by filing suit against the holder in a district court in the county in which the claimed property is located. The holder's immunity from suit without consent is waived with respect to a suit under this section.
- (d) A court shall try an action filed under this section *de novo* and shall apply the rules of practice of the court.

Section 76.506. Fee for Recovery

A person who informs a potential claimant that the claimant may be entitled to claim property that is reportable to the treasurer of the holder under this chapter, that has been reported to the treasurer of the holder, or that

is in the possession of the treasurer of the holder may not contract for or receive from the claimant for services an amount that exceeds 10 percent of the value of the property recovered. If the property involved is mineral proceeds, the amount for services may not include a portion of the underlying minerals or any production payment, overriding royalty, or similar payment.

Section 76.507. Claim of Another State to Recover Property; Procedure

- (a) At any time after property has been paid or delivered to the treasurer of the holder under this chapter, another state may recover the property if:
- (1) the property was subjected to custody by the holder because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this chapter, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;
 - (2) the last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state; or
 - (3) the records of the holder were erroneous in that the records did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state.
- (b) The claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the treasurer of the holder, who shall decide the claim within 90 days after the date it is presented. The treasurer of the holder shall allow the claim if the treasurer of the holder determines that the other state is entitled to the abandoned property under Subsection (a).

Sections 76.508-76.600 Reserved for Expansion

**Subchapter G.
Unclaimed Money Fund**

Section 76.601. Fund

- (a) The treasurer of the holder shall maintain a fund known as the unclaimed money fund.
- (b) The treasurer of the holder shall deposit to the credit of the fund:
- (1) all funds, including marketable securities, delivered to the treasurer of the holder under this chapter or any other statute requiring the delivery of unclaimed property to the treasurer of the holder;
 - (2) all proceeds from the sale of any property, including marketable securities, under this chapter; and
 - (3) any income derived from investments of the fund.
- (c) The treasurer of the holder shall keep a separate record and accounting for delivered unclaimed property, other than money, before its sale.
- (d) The treasurer of the holder shall from time to time invest the amount in the unclaimed money fund in investments approved by law for the investment of funds by the holder.
- (e) The treasurer of the holder may from time to time sell securities in the fund, including stocks, bonds, and mutual funds, and use the proceeds to buy, exchange, invest, or reinvest in marketable securities. When making the investments, the treasurer of the holder shall exercise the judgment and care of a prudent person.
- (f) The treasurer of the holder shall keep a separate record and accounting for securities delivered, sold, purchased, or exchanged and the proceeds and earnings from the securities.

Section 76.602. Use of Fund

- (a) The treasurer of the holder shall use the unclaimed money fund to pay the claims of persons establishing ownership of property in the possession of the treasurer of the holder under this chapter or under any other unclaimed property or escheat statute.

- (b) Each fiscal year after deducting fund sufficient to pay anticipated expenses and claims of the unclaimed money fund, the treasurer of the holder shall transfer the remainder to the general fund of the holder.
- (c) The treasurer of the holder and the attorney for the holder may use the unclaimed money fund generally for the enforcement and administration of this chapter, including the expenses of forms, notices, examinations, travel, court costs, supplies, equipment, and employment of necessary personnel and other necessary expenses.

Section 76.603. Audit; Budget

The unclaimed money fund is subject to:

- (1) audit by the auditor of the holder or an independent auditor if the holder does not have an auditor; and
- (2) budgetary procedures adopted by the governing body of the holder.

Sections 76.604-76.700 Reserved for Expansion

Subchapter H. Enforcement

Section 76.701. Rules

The treasurer of the holder may adopt rules necessary to carry out this chapter.

Section 76.702. Examination of Records

- (a) To enforce this chapter and to determine whether reports have been made as required by this chapter, the treasurer of the holder, at any reasonable time, may examine the books and records of the holder.
- (b) The treasurer of the holder, attorney for the holder, or an agent of either person may not make public any information obtained by an examination made under this section and may not disclose that information except:
 - (1) in the course of a judicial proceeding authorized by this chapter in which the holder is a party; or

- (2) under an agreement with another state allowing joint audits or the exchange of information obtained under this section.

Section 76.703. Additional Personnel

- (a) The treasurer of the holder and the attorney for the holder may employ, in the office of either person, additional personnel necessary to enforce this chapter.
- (b) The salary rate of additional personnel may not exceed the rate paid to other employees of the holder for similar services.
- (c) The salaries of additional personnel shall be paid in accordance with Section 76.602.
- (d) The provisions of this section are subject to the budgetary procedures adopted by the governing body of the holder.

Section 76.704. Offense

- (a) A person commits an offense if the person:
 - (1) willfully fails to file a report required by this chapter;
 - (2) refuses to permit examination of records in accordance with this chapter;
 - (3) makes a deduction from or a service charge against a dormant account or dormant deposit of funds; or
 - (4) violates any other provision of this chapter.
- (b) An offense under this section is punishable by:
 - (1) a fine of not less than \$500 or more than \$1,000;
 - (2) confinement in jail for a term not to exceed six months; or
 - (3) both the fine and confinement.
- (c) In addition to a criminal penalty, a person who commits an offense under Subsection (a) is subject to a civil penalty not to exceed \$100 for each day of the violation. The attorney for the holder shall collect the civil penalty by bringing suit in a district court of the county in which the holder is located.

Appendices

Appendix A:

Additional Information Regarding Chapter 76 from Senate Bill 700, 75th Legislature, Regular Session

Section 41.

- (a) The changes in law made by Section 74.001, Property Code, as amended by this Act, and Chapter 76, Property Code, as added by this Act, apply only to unclaimed property held by a holder, as that term is used in Chapter 76, Property Code, as added by this Act, on or after June 30, 1998.
- (b) Property held by a holder, as that term is used in Chapter 76, Property Code, as added by this Act, on June 30, 1997, is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Section 43.

- (a) Interest, attorney's fees, and penalties owed by a county or municipality under Section 74.705, Property Code, before June 30, 1998, are not required to be paid if the county or municipality delivers to the comptroller of public accounts not later than March 1, 1999, the property for which the interest, attorney's fees, or penalties have accrued. The waiver of interest, attorney's fees, and penalties provided by this subsection is for the purpose of permitting the county or municipality to defray the costs of administering Chapter 76, Property Code, as added by this Act.
- (b) Any property valued at \$100 or less that is required to be delivered to the comptroller of public accounts by a county or municipality under Chapter 74, Property Code, before June 30, 1998, and that has not been delivered to the comptroller by that date:
 - (1) is not required to be delivered to the comptroller; and

- (2) will not accrue interest, attorney's fees, or penalties after June 30, 1998.

Section 44.

This Act takes effect September 1, 1997.

Appendix B:

Other Provisions of V.T.C.S. Regarding Unclaimed Property

Section 116.116. Local Government Code

- (c) A warrant or check issued by the county treasurer in settlement of a claim against a county that is not presented for payment before the 366th day following the date of issuance is overdue and nonnegotiable. The sum of the overdue warrant or check shall be credited as revenue to the county if delivery to the payees was attempted or occurred within a reasonable time following the issuance of the warrant or check. No right to full settlement of a proper unpaid claim is extinguished by this subsection.

Section 117.002. Local Government Code

Any funds deposited under this Chapter, except cash bail bonds, that are presumed abandoned under Chapter 72, 73, or 75, Property Code, shall be reported and delivered by the county or district clerk to the Comptroller without further action by any court. The dormancy period for funds deposited under this chapter begins on the later of:

- (1) the date of entry of final judgment or order of dismissal in the action in which the funds were deposited;
- (2) the 18th birthday of the minor for whom the funds were deposited; or
- (3) a reasonable date established by rule by the comptroller to promote the public interest in disposing of unclaimed funds.

Sections 427, 428, and 429, Probate Code

These amendments require that if a person entitled to a portion of an estate doesn't demand it within six months of the court order or settlement of account by the executor or administrator, the court must pay it to the comptroller; that the comptroller be an indispensable party to any escheatable estate; that any clerk shall be liable for a penalty of one hundred dollars for failure to notify the comptroller by certified copy of the court order to remit.

Sections 431 and 432, Probate Code

These amendments provide for a penalty for failure to make payments to comptroller when ordered to do so by the court and permit the comptroller to enforce payment and collect damages.

Section 433, Probate Code

This amendment provides that when funds of an estate have been paid to the comptroller, any heirs or their assigns may recover the portion to which they are entitled, but must institute suit before the fourth anniversary of the date of the order requiring payment to the state.

Section 61.001. Government Code

(f) A reimbursement for expenses under this section is not a property right of a juror or prospective juror for purposes of Chapters 72 and 74, Property Code. If a check or other instrument representing a reimbursement under this section is not presented for payment or redeemed before the 90th day after it is issued:

- (1) the instrument is considered forfeited and is void; and
- (2) the money represented by the instrument may be placed in the county's jury fund, the county's general fund, or any other fund in which county funds can be legally placed, at the discretion of the commissioners court.

Section 411.0111. Government Code**Provision of Certain Information to Comptroller**

(a) Not later than June 1 of every fifth year, the department shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed

property reported to the comptroller, the name, address, social security number, date of birth, and driver's license or state identification number of each person about whom the department has such information in its records.

- (b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.
- (c) The department shall provide the information in the format prescribed by rule of the comptroller.

Section 811.012. Government Code**Provision of Certain Information to Comptroller**

- (a) Not later than June 1, 2016, and once every five years after that date, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.
- (b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.
- (c) The retirement system shall provide the information in the format prescribed by rule of the comptroller.

Section 821.010. Government Code**Provision of Certain Information to Comptroller**

- (a) Not later than June 1 of every fifth year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.
- (b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.
- (c) The retirement system shall provide the information in the format prescribed by rule of the comptroller.

Section 61.001 Labor Code**Definitions**

- (7) “Wages” means compensation owed by an employer for:
- (A) labor or services rendered by an employee, whether computed on a time, task, piece, commission, or other basis;

Section 301.086 Labor Code**Provision of Certain Information to Comptroller**

- (a) Not later than June 1 of every fifth year, the commission shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each person about whom the commission has such information in its records.
- (b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.
- (c) The commission shall provide the information in the format prescribed by rule of the comptroller.

Section 521.044 Transportation Code**Use of Disclosure of Social Security Number Information**

- (a) Information provided on a driver’s license application that relates to the applicant’s social security number may be used only by the department or disclosed only to:
- (1) the child support enforcement division of the attorney general’s office;
 - (2) another state entity responsible for enforcing the payment of child support;
 - (3) the United States Selective Service System as provided by Section 521.147; or
 - (4) the unclaimed property division of the comptroller’s office.

Section 51.011 Education Code**Disposition of Small Credit Balances**

- (a) This section applies to a credit balance of less than \$25 held by an institution of higher education that is presumed abandoned under Chapter 72, Property Code.
- (b) An institution of higher education may maintain an unclaimed money fund and transfer to that fund a credit balance to which this section applies. A deposit to the unclaimed money fund does not affect the ownership of the amount deposited. The institution shall:
- (1) adopt procedures for owners to make and receive payments of claims against the fund; and
 - (2) maintain a database that permits members of the public to search for ownership of unclaimed funds.
- (c) The institution of higher education shall use the fund to pay the claims of persons establishing ownership of amounts transferred to the fund and shall hold and account for the unclaimed money fund as educational and general funds of the institution. If the fund balance is insufficient to pay a valid claim, the institution shall pay the claim from the institution’s other educational and general funds.
- (d) Each fiscal year, after deducting funds sufficient to pay anticipated expenses of and claims against the unclaimed money fund, the institution shall use the balance of the fund as other educational and general funds of the institution.
- (e) In consultation with institutions of higher education, the comptroller by rule may establish minimum requirements for notice to owners of unclaimed money deposited in the unclaimed money fund and for charges for that notice. The rules may not provide stricter requirements than the comptroller applies for amounts of less than \$25 in the custody of the comptroller under Chapter 74, Property Code.
- (f) If an institution of higher education maintains an unclaimed money fund under this section, Chapter 74, Property Code, does not apply to a credit balance to which this section applies.

Appendix C:

Chapter 604 Business & Commerce Code Sale or Issuance of Stored Value Card

Subchapter A. General Provisions

Section 604.001. Definition of Stored Value Card

In this chapter, “stored value card”:

- (1) means a record, as defined by Section 322.002, including a record that contains a microprocessor chip, magnetic strip, or other means of storing information:
 - (A) that evidences a promise made for monetary consideration by the seller or issuer of the record that goods or services will be provided to the owner of the record in the value shown in the record;
 - (B) that is prefunded; and
 - (C) the value of which is reduced on redemption; and
- (2) includes a gift card or gift certificate.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Section 604.002. Inapplicability of Chapter

This chapter does not apply to a stored value card that:

- (1) is issued by:
 - (A) a financial institution acting as a financial agent of the United States or this state;
 - (B) a federally insured financial institution, as defined by Section 201.101, Finance Code, if the financial institution is primarily liable for the card as the issuing principal; or
 - (C) an air carrier holding a certificate of public convenience and necessity under Title 49, United States Code;

- (2) is issued as a prepaid calling card by a prepaid calling card company regulated under Section 55.253, Utilities Code;
- (3) is distributed by the issuer to a person under an awards, rewards, loyalty, incentive, rebate, or promotional program and is not issued or reloaded in exchange for money tendered by the cardholder;
- (4) is sold below face value or donated to:
 - (A) an employee of the seller or issuer;
 - (B) a nonprofit or charitable organization; or
 - (C) an educational institution for fund-raising purposes; or
- (5) does not expire and for which the seller does not charge a fee other than a fee described in Section 604.051.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Section 604.003. Cause of Action Not Created

This chapter does not create a cause of action against a person who issues or sells a stored value card.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Subchapter B. Permissible Fees

Section 604.051. Fees and Charges Related to Issuance and Handling of Card

If disclosed as required by Subchapter C, the issuer of a stored value card may impose and collect a reasonable:

- (1) handling fee in connection with the issuance of or adding of value to the card;
- (2) access fee for a card transaction conducted at an unmanned teller machine, as defined by Section 59.301, Finance Code; and
- (3) reissue or replacement charge if an expired or lost card is reissued or replaced.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Section 604.052. Fees or Charges that Decrease Unredeemed Balance of Card

The issuer of a stored value card may impose or collect a periodic fee or other charge that causes the unredeemed balance of the card to decrease over time only if the fee:

- (1) is reasonable;
- (2) is not assessed until after the first anniversary of the date the card is sold or issued; and
- (3) is disclosed as required by Subchapter C.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Subchapter C. Required Disclosures

Section 604.101. Required Disclosure of Certain Matters Applicable to Card

An expiration date or policy, fee, or other material restriction or contract term applicable to a stored value card must be clearly and conspicuously disclosed at the time the card is sold or issued to a person to enable the person to make an informed decision before purchasing the card.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Section 604.102. Required Printing of Certain Disclosures

In addition to the disclosure required under Section 604.101, a disclosure regarding the expiration of a stored value card or a periodic fee that reduces the unredeemed value of a stored value card must be legibly printed on the card.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 2.01, eff. April 1, 2009.

Section 604.103. Validity of Card Sold Without Required Disclosures

A stored value card sold without the disclosure required by this subchapter of an expiration date or policy, fee, or other material restriction or contract term applicable to the card is valid until redeemed or replaced.

Appendix D:

Chapter 1109. Insurance Code Unclaimed Life Insurance and Annuity Contract Proceeds

Subchapter A. General Provisions

Section 1109.001. Applicability of Chapter

- (a) This chapter applies to proceeds held and owing by a life insurance company engaged in the business of insurance in this state if:
 - (1) the last known address, according to the company's records, of the person entitled to the proceeds is located in this state; and
 - (2) the proceeds have been unclaimed and unpaid for at least three years after the date, according to the company's records, that the proceeds became due and payable under a life or endowment insurance policy or annuity contract that has matured or terminated.
- (b) If a person other than the insured or annuitant is entitled to the proceeds and that person's address is not known to the company or if the identity of the person entitled to the proceeds is not certain from the company's records, it is presumed that the last known address of the person entitled to the proceeds is the same as the last known address of the insured or annuitant according to the company's records.
- (c) For purposes of Subsection (a), a life insurance policy not matured by proof of the death of the insured is considered to be matured and the proceeds of the policy are considered to be due and payable only if the policy is in force at the time the insured attained the limiting age under the mortality table on which the reserve is based.
- (d) An annuity or other obligation, the payment of which is conditioned on the continued life of any individual, is not considered due and payable for purposes of Subsection (a) without proof that the individual was alive at the time or times required by the contract.

- (e) Proceeds otherwise admittedly due and payable under a life or endowment insurance policy or annuity contract that has matured or terminated are considered to be held and owing even if the policy or contract has not been surrendered as required

Subchapter B.

Delivery of Proceeds to State

Section 1109.051. Company Report of Unclaimed Proceeds

- (a) A life insurance company engaged in the business of insurance in this state that on June 30 holds unclaimed proceeds subject to this chapter shall file a report of those proceeds on or before the following November 1. The report shall be filed in writing with the comptroller.
- (b) The report is not required to include proceeds that have been paid to another state or other jurisdiction under any law of that state or jurisdiction relating to escheat or unclaimed money.
- (c) The report must be signed and sworn to by an officer of the company and must state:
- (1) in alphabetical order the full name of the insured or annuitant, the last known address of the insured or annuitant according to the company's records, and the policy or contract number;
 - (2) the amount due on the policy or contract according to the company's records;
 - (3) the date the proceeds became payable;
 - (4) the name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in the proceeds; and
 - (5) any other identifying information the comptroller requires.
- (d) A life insurance company may report individual amounts of less than \$50 in the aggregate without providing the information listed by Subsection (c).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.052. Delivery of Proceeds to Comptroller

A life insurance company required to file a report under Section 1109.051 shall deliver to the comptroller with the report all unclaimed proceeds described by the report.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.053. Retention of Records by Insurance Company

- (a) A life insurance company required to file a report under Section 1109.051 shall maintain a record of:
- (1) the name and last known address, if any, of the insured, annuitant, or beneficiary;
 - (2) the policy or contract number; and
 - (3) the amount of the proceeds due on the policy or contract according to the company's records.
- (b) The company shall maintain the record until at least the 10th anniversary of the date the proceeds are required to be reported, regardless of whether the amount was reported in the aggregate. The comptroller by rule may provide for a shorter retention period for the record.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.054. Public Record of Receipt of Proceeds

- (a) The comptroller shall maintain in the comptroller's office a public record of each delivery of unclaimed proceeds received under this chapter.
- (b) Except as to amounts reported in the aggregate, the record must include:
- (1) in alphabetical order, the name and last known address of each insured or annuitant and of each beneficiary or other person who, according to the life insurance company's reports, may have an interest in the proceeds; and
 - (2) with respect to each policy or contract, the policy or contract number, the name of the company, and the amount of the unclaimed proceeds.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.055. State Responsibility for Proceeds; Indemnification of Company

- (a) On the delivery of unclaimed proceeds under this chapter:
 - (1) the state assumes custody of the proceeds for the benefit of each person entitled to receive the proceeds and for the safekeeping of the proceeds; and
 - (2) the life insurance company is relieved of and held harmless by the state from any liability relating to the proceeds for a claim existing at the time of delivery of the proceeds to the comptroller or that arises or is made after delivery of the proceeds.
- (b) A life insurance company that delivers proceeds to the comptroller under this chapter in good faith is relieved of liability relating to the proceeds to the extent of the value of the proceeds delivered for a claim existing at the time of delivery or that arises or is made after delivery.
- (c) If a life insurance company delivers unclaimed proceeds to the comptroller under this chapter in good faith and, after delivery, a person claims the proceeds from the life insurance company or another state claims the proceeds under its laws relating to escheat or unclaimed property, the attorney general shall, on written notice of the claim, defend the life insurance company against the claim. The life insurance company shall be indemnified against liability on the claim from the unclaimed money received under Chapter 74, Property Code, or under any other statute requiring delivery of unclaimed property to the comptroller.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.056. Examination of Company Records

- (a) The comptroller may examine the records of a life insurance company to determine if the company is complying with this chapter.
- (b) The comptroller may not make public any information obtained from an examination made under this section.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

**Subchapter C.
Public Notice**

Section 1109.101. Public Notice of Unclaimed Proceeds

- a) In the calendar year following the year in which a report required by Section 1109.051 is made and in which the unclaimed proceeds described in the report are delivered to the comptroller under Section 1109.052, the comptroller may publish notice based on the information contained in the report. Except as provided by Subsection (d), the comptroller shall publish the notice once in a newspaper published or having a general circulation in each county of this state in which the last known address of a person appearing to be entitled to any of those proceeds is located.
- (b) The notice must:
 - (1) state in alphabetical order the name of each insured or annuitant under the policies or contracts and the municipality of the insured's or annuitant's last known address, if any; and
 - (2) state that the unclaimed proceeds have been delivered to the comptroller as of the preceding November 1 and may be claimed from the comptroller.
- (c) The publication requirements under Subchapter C, Chapter 74, Property Code, apply to publication of notice under this section.
- (d) The comptroller may use a method of publishing notice different from that prescribed by Subsection (a) if the comptroller determines that the different method would be as likely to give actual notice to the person required to be named in the notice as the method prescribed by Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Subchapter D.

Claims for proceeds

Section 1109.151. Filing of claim

A person claiming to be entitled to unclaimed proceeds delivered to the comptroller under this chapter may at any time file a claim for the proceeds with the comptroller.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.152. Determination of Claim

The comptroller may accept or reject a claim made under Section 1109.151.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.153. Appeal

- (a) If the comptroller rejects a claim made under Section 1109.151 or does not act on a claim before the 91st day after the date the claim is filed, the claimant may file suit to recover the proceeds.
- (b) The comptroller is the defendant in a suit filed under this section.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Section 1109.154. Payment of Claim

The comptroller shall pay from unclaimed money received under Chapter 74, Property Code, or under any other statute requiring the delivery of unclaimed property to the comptroller, a claim that:

- (1) the comptroller accepts; or
- (2) a court orders the comptroller to pay.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

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