

**CHAPTER 230**

**S.B. No. 906**

An Act relating to the escheat of unclaimed property; to the powers and duties of holders of the property, the treasurer, and the attorney general; and to cooperation by other state agencies; creating an unclaimed money fund; providing civil and criminal penalties; amending the Property Code, as amended, by amending the following sections and subsections: 70.001, 71.002, 71.101(a), 71.107, 72.001, 72.101, 72.102, 72.103, 73.001, 73.003(a), and 73.101; amending various chapter headings; and adding Chapters 74 and 75 to Title 6; amending Subsection (c), Section 91.403, Natural Resources Code; repealing the following sections of the Property Code: 71.007, 72.104, 72.105, 73.102, 73.103, and 73.104 and Subchapters C

through H. Chapter 72, and Subchapters C through F, Chapter 73, and Chapter 321, Acts of the 66th Legislature, Regular Session, 1979 (Article 1581h, Vernon's Texas Civil Statutes).

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** The heading for Chapter 71, Property Code, is amended to read as follows:

**"CHAPTER 71. ESCHEAT OF PROPERTY [DECEDENT'S ESTATE]"**

**SECTION 2.** Section 71.001, Property Code, is amended to read as follows:

"Section 71.001. ESCHEAT. (a) If an individual dies intestate and without heirs, the real and personal property of that individual *is subject to escheat* [~~escheats to and vests in the state~~].

"(b) 'Escheat' means the vesting of title to property in the state in an escheat proceeding under Subchapter B."

**SECTION 3.** Section 71.002, Property Code, is amended to read as follows:

"Section 71.002. PRESUMPTION OF DEATH. An individual is presumed dead for the purpose of determining if the individual's real or personal property *is subject to escheat* [~~other than traveler's checks, escheats~~] if the individual:

"(1) is absent from the individual's place of residence for seven years or longer; and

"(2) is not known to exist."

**SECTION 4.** Subsection (a), Section 71.101, Property Code, is amended to read as follows:

"(a) If the attorney general or a district attorney, criminal district attorney, or county attorney is informed or has reason to believe that real or personal property is subject to escheat under this chapter, the attorney *may* [~~shall~~] file a sworn petition requesting the escheat of the property and requesting a writ of possession for the property."

**SECTION 5.** Section 71.107, Property Code, is amended to read as follows:

"Section 71.107. JUDGMENT FOR STATE. (a) If [~~the property escheats to the state,~~] the court *renders a* [~~shall render~~] judgment for the state *finding that an intestate died without heirs, the property escheats to the state and title to the property is considered to pass to the state on the date of death of the owner as established by the escheat proceeding. The court* [~~to recover the property and~~] may award court costs to the state.

"(b) If the judgment *involves* [~~is for~~] real property, the court shall fix the minimum price for which the state may sell the property, and, after the second anniversary of the date of the final judgment, the court shall issue a writ of possession for the property.

"(c) If the judgment *involves* [~~is for~~] personal property, the court shall issue a writ of possession that contains an adequate description of the property as in other cases for recovery of personal property."

**SECTION 6.** The heading for Chapter 72, Property Code, is amended to read as follows:

**"CHAPTER 72. ABANDONMENT [ESCHEAT] OF PERSONAL PROPERTY [HELD BY PERSON OTHER THAN BANKING ORGANIZATION OR LIFE INSURANCE COMPANY]"**

**SECTION 7.** Section 72.001, Property Code, is amended to read as follows:

"Section 72.001. RECIPROCITY; APPLICATION OF CHAPTER. (a) Specific property is not presumed abandoned and is not subject to this chapter if:

"(1) the property is held for or owed or distributable to an owner whose last known address is in another state;

"(2) the holder of the property is subject to the jurisdiction of the other state;

"(3) the property has been claimed as abandoned or has escheated under the laws of the other state; and

"(4) the other state has a reciprocal legal provision that property is not presumed abandoned or escheatable by the other state if the property is held for or owed or distributable to an owner whose last known address is in this state and the holder of the property is subject to the jurisdiction of this state.

"(b) This chapter applies to tangible and intangible personal property held in this state and to tangible and intangible personal property held outside this state for a person whose last known address is in this state.

"(c) [~~This chapter does not apply to property held by a bank, savings and loan association, or other banking organization.~~]

~~“(d)”~~ This chapter supplements Chapter 71, and either *chapter* [~~procedure~~] may be followed to the extent applicable.

*“(d) This chapter applies to property held by life insurance companies with the exception of unclaimed funds, as defined by Section 3, Article 4.08, Insurance Code, held by those companies that are subject to Article 4.08, Insurance Code.*

*“(e) A holder of property presumed abandoned under this chapter is subject to the procedures of Chapter 74.*

*“(f) 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.”*

**SECTION 8.** The heading for Subchapter B, Chapter 72, Property Code, is amended to read as follows:

**“SUBCHAPTER B. PRESUMPTION OF ABANDONMENT [PROPERTY REPORT]”**

**SECTION 9.** Section 72.101, Property Code, is amended to read as follows:

**“Section 72.101. PERSONAL PROPERTY PRESUMED ABANDONED [SUBJECT TO ESCHEAT].** (a) *Except as provided by Subsection (b) and Section 72.102, personal [Personal] property [; other than traveler's checks;] is presumed abandoned [and subject to escheat] if, for longer than three [seven] 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 [; and*

~~*“(3) a will of the owner of the property has not been recorded or probated in the county in which the property is located].*~~

*“(b) Except as provided by Subsections (c) and (d), stock or another intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned if:*

*“(1) a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for five years and the owner within five years has not:*

*“(A) communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or*

*“(B) otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by the association or its agents; and*

*“(2) the business association does not know the location of the owner at the end of the five-year period.*

*“(c) At the expiration of a five-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least five dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If five dividends, distributions, or other sums are paid during the five-year period, the period leading to a presumption of abandonment commences on the date that payment of the first unclaimed dividend, distribution, or other sum became due and payable. If five dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been five dividends, distributions, or other sums that have not been claimed by the owner.*

*“(d) The running of the five-year period of abandonment ceases immediately upon the occurrence of a communication referred to in Subsection (b). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time that dividend, distribution, or other sum became due and payable.*

*“(e) At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.*

*“(f) This section does not apply to 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 interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within five years communicated in any manner described by Subsection (b).”*

**SECTION 10.** Section 72.102, Property Code, is amended to read as follows:

"Section 72.102. **TRAVELER'S CHECK AND MONEY ORDER.** (a) A traveler's check or money order is not presumed to be abandoned ~~for subject to escheat to this state~~ under this chapter unless:

"(1) the records of the issuer of the check or money order indicate that it ~~the check~~ 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 ~~and subject to escheat~~ 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 written 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 to be abandoned on the latest of:

"(1) the fifth anniversary of the date on which the money order was issued;

"(2) the fifth anniversary of the date on which the issuer of the money order last received from the owner of the money order written communication concerning the money order; or

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

**SECTION 11.** Section 72.103, Property Code, is amended to read as follows:

"Section 72.103. **PRESERVATION OF PROPERTY [RESTORATION OF CHARGES].** A holder of abandoned property shall preserve the 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 ~~if the personal property subject to escheat is a dormant deposit or a dormant account on which a deduction for service, maintenance, or other charges would be restored under the policy or procedure of the holder of the property on request of the owner, the amount subject to escheat includes the amount of the deduction that would be restored.~~"

**SECTION 12.** The heading for Chapter 73, Property Code, is amended to read as follows:

**"CHAPTER 73. [ESCHEAT OF] INACTIVE ACCOUNTS HELD BY BANKING ORGANIZATIONS"**

**SECTION 13.** Section 73.001, Property Code, is amended to read as follows:

"Section 73.001. **DEFINITIONS AND APPLICATION OF CHAPTER.** (a) In this chapter:

"(1) 'Account' means funds deposited with a depository in a checking, time, interest, or savings account ~~a demand, savings, or other deposit of money, or its equivalent in banking practice, or any other evidence of indebtedness that is held by a depository for repayment to the depositor or for the depositor's order.~~

"(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.

"(b) This chapter supplements Chapter 71, and either chapter may be followed to the extent applicable.

"(c) Any property, other than an account or safe deposit box, held by a depository is subject to the abandonment provisions of Chapter 72.

"(d) A holder of accounts or safe deposit boxes presumed inactive under this chapter is subject to the procedures of Chapter 74."

**SECTION 14.** Subsection (a), Section 73.003, Property Code, is amended to read as follows:

"(a) A ~~Except as provided by Section 73.104, a~~ depository shall preserve an inactive account that is inactive and the contents of a deposit box that is inactive. The depository may not by any procedure, including the imposition of a service charge, transfer, convert, or reduce such an account or the contents of such a box to the profits or assets of the depository."

**SECTION 15.** The heading for Subchapter B, Chapter 73, Property Code, is amended to read as follows:

"SUBCHAPTER B. PRESUMPTION OF INACTIVITY [NOTICE FOR  
INACTIVE ACCOUNTS AND SAFE DEPOSIT BOXES SUBJECT TO  
ESCHEAT]"

SECTION 16. Section 73.101, Property Code, as amended, is amended to read as follows:

"Section 73.101. *ACCOUNT OR [NOTICE FOR CERTAIN INACTIVE ACCOUNTS AND] SAFE DEPOSIT BOX PRESUMED INACTIVE [BOXES]*. (a) *An [In May of each year, a depository shall publish notice concerning an] account or safe deposit box is presumed inactive if:*

"(1) the account or safe deposit box has been inactive for at least *five [seven]* years;

"(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 [has]* not been delivered to the State Treasurer in accordance with *Chapter 74 [Section 73.201]*.

"(b) To satisfy the *five-year [seven/year]* period of inactivity required by Subdivision (1) of Subsection (a), the account or safe deposit box must have been inactive for a continuous period beginning not later than *June 30 [May 1]* of the *fifth [seventh]* year preceding the year in which *the report is filed under Chapter 74 [notice is published]*.

"(c) *The notice must be entitled 'Notice of the Names of Persons Appearing as the Owners of Unclaimed Safe Deposit Boxes and Amounts Held by (name and address of depository)' and must contain:*

"(1) *the names of the missing depositors and owners, listed alphabetically, and the last known address of each, if any; and*

"(2) *a statement that if proof of ownership is presented within the nine-month period immediately following the day on which the notice is published, the unclaimed accounts and boxes will be paid or delivered to the owner at the office of the depository, but if amounts remain unclaimed after that period, they are subject to report to and management by the State Treasurer under this chapter.*

"(d) *The notice must be published in a newspaper, as defined by Subdivision (2), Section 1, Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's Texas Civil Statutes), in the city or county in which the depository is located or, if such a newspaper is not published in that county, in an adjoining county.*

"(e) *The notice may not list the amounts credited to the accounts or the contents of the boxes.*"

SECTION 17. Title 6, Property Code, is amended by adding Chapters 74 and 75 to read as follows:

"CHAPTER 74. REPORT, DELIVERY, AND CLAIMS PROCESS

"SUBCHAPTER A. APPLICABILITY

"Section 74.001. *APPLICABILITY. This chapter applies to a holder of property that is presumed:*

"(1) *abandoned under Chapter 72 or Chapter 75; or*

"(2) *inactive under Chapter 73.*

"[Sections 74.002-74.100 reserved for expansion]"

"SUBCHAPTER B. PROPERTY REPORT

"Section 74.101. *PROPERTY REPORT. (a) Each holder, other than a life insurance company, who on June 30 of a year holds property that is presumed abandoned under Chapter 72 or Chapter 75 or inactive under Chapter 73 shall file a report of that property on or before November 1 of that year. A life insurance company that on December 31 of a year holds property that is presumed abandoned under Chapter 72 shall file a report of that property on or before May 1 of the following year. Each report shall be filed with the State Treasurer as provided by this section and on forms prescribed by the State Treasurer.*

"(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.*

"(c) *The property report must include:*

"(1) *the name, if known, and the last known address, if any, of each person who, from the records of the holder of the property, appears to be the owner of the property, or the name and address, if known, of any person who is entitled to the property;*

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

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

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

“(5) any deduction made by the holder of the property for a service, maintenance, or other charge, unless fully restored and included in the amount reported; and

“(6) other information that the State Treasurer by rule requires to be disclosed as necessary for the administration of this chapter.

“(d) If a holder holds proceeds from mineral interests for more than one owner, the holder shall assign an identifying number to each owner’s account of proceeds. For mineral proceeds, a property report must include:

“(1) the name and last known address of the owner of the proceeds;

“(2) the nature of the proceeds and the identifying number of the account, if any, or a description of the proceeds;

“(3) credits grouped by the county from which the credited proceeds were derived, including credits that were previously disposed of in any manner other than by payment to the owner;

“(4) the fractional mineral interest of the owner;

“(5) the description and location of the land from which the minerals were produced;

“(6) the name of the person who operated the well or mine;

“(7) the period during which the proceeds accumulated;

“(8) the price for which the minerals were sold; and

“(9) the amount that, according to records, is due from each interest, except as provided by Subsection (e).

“(e) Amounts due that individually are less than \$25 shall be reported in the aggregate without furnishing any of the information required by Subsection (c) or (d).

“Section 74.102. 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:

“(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 verification must include the following sentence:

“The foregoing 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 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 and 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

“(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 State Treasurer may by rule provide for a shorter period for keeping a record required by this section.

“[Sections 74.104-74.200 reserved for expansion]

#### “SUBCHAPTER C. NOTICE

“Section 74.201. PUBLISHED NOTICE. (a) Except as provided by Section 74.202, the State Treasurer shall publish a notice in a newspaper of general circulation in March of the year immediately following the year in which the report required by Section 74.101 is filed. The notice must be published:

“(1) in the county in which the last known address of a person required to be named in the notice is located; or

“(2) if the address of a person listed is not set out in the report or if it is outside the state, in the county in which the holder of the abandoned property has its principal place of business, registered office, or agent for service in this state.

“(b) The published 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, if any, of each person listed in the property report filed under Section 74.101, listed alphabetically by name;

“(2) a statement that, by addressing an inquiry to the State Treasurer, any person possessing an interest in the reported property may obtain information concerning the amount and description of the property and the name and address of the holder; and

“(3) a statement that if the owner does not present proof of the claim to the holder and establish the owner’s right to receive the property within the period provided by Section 74.301, the property will be delivered to the State Treasurer and that all claims made after that delivery must be sent to the State Treasurer.

“Section 74.202. **NOTICE FOR ITEM WITH VALUE NOT EXCEEDING \$50.** In the notice required by Section 74.201, the State Treasurer is not required to publish information regarding an item having a value that is less than \$50 unless the State Treasurer determines that publication of that information is in the public interest.

“Section 74.203. **NOTICE TO OWNER.** (a) During March of the year immediately following the year in which the report required by Section 74.101 is filed, the State Treasurer shall mail a notice to each person who has a Texas address and appears to be entitled to the reported property valued at \$50 or more.

“(b) The notice must contain:

“(1) a statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears to be entitled;

“(2) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

“(3) a statement that if the owner does not present proof of the claim to the holder and establish the owner’s right to receive the property within the period provided by Section 74.301, the property will be delivered to the State Treasurer and that all claims made after that delivery must be sent to the State Treasurer.

“Section 74.204. **NOTICE THAT ACCOUNTS ARE SUBJECT TO THIS CHAPTER.** Publication of notice in accordance with Section 74.201 is notice to the owner by the holder and this state that the reported property is subject to this chapter.

“Section 74.205. **CHARGE FOR NOTICE.** The State Treasurer 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 STATE TREASURER.** (a) If the owner of property for which notice is published does not establish the owner’s right to the property within six months after the date on which the report is required to be filed by Section 74.101, the holder of the property, other than a life insurance company, shall deliver the property to the State Treasurer on or before May 1 of the year following the year in which the report is required to be filed. If the holder of the property is a life insurance company, the company shall deliver the property to the State Treasurer on or before November 1 of the year in which the report is required to be filed.

“(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 State Treasurer at the time delivery is required under this section.

“(c) Instead of delivering to the State Treasurer reported property for which publication of notice is required, the holder shall file with the State Treasurer a verified written explanation of the proof of claim or the error in the presumption of abandonment or inactivity if:

“(1) the owner establishes the owner’s right to the property to the satisfaction of the holder of the property within six months after the date on which the report was filed; or

“(2) it appears that for some other reason the presumption of abandonment is erroneous.

“Section 74.302. **VERIFICATION OF DELIVERED PROPERTY.** (a) Property delivered under Section 74.301 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 since the date on which the property report was filed.

“(b) The verification 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.

“Section 74.303. **EFFECT OF LATE NOTICE.** Failure of the State Treasurer to give notice within the period prescribed by Section 74.201 or 74.203 does not affect:

“(1) the owner's right to claim the property from the holder before it is delivered to the State Treasurer; or

“(2) the holder's duty to deliver the property to the State Treasurer on the date specified by Section 74.301.

“Section 74.304. **RESPONSIBILITY AFTER DELIVERY.** (a) If reported property is delivered to the State Treasurer the state shall assume custody of the property and responsibility for its safekeeping.

“(b) A holder who delivers property to the State Treasurer 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 State Treasurer, or that may be made with respect to the property.

“(c) If the holder delivers property to the State Treasurer 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 fund established in Section 74.601 against any liability on the claim.

“(d) The State Treasurer 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 treasurer'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 State Treasurer 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;

“(2) the person 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 person 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.

“(f) On delivery of a duplicate certificate or other evidence of ownership to the State Treasurer 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 State Treasurer, for any losses or damages resulting to any person by the issuance and delivery to the State Treasurer of the duplicate certificate.

“Section 74.305. **SUIT TO COMPEL DELIVERY.** (a) If a holder fails to deliver property to the State Treasurer in accordance with this subchapter, the attorney general shall bring an action in the name of this state on request of the State Treasurer to compel the delivery of the property.

“(b) Venue for a suit brought under this section is in a district court in Travis County, Texas.

“(c) The fact that a suit seeks to compel delivery of property from more than one holder is not grounds for an objection concerning the misjoinder of parties or causes of action.

“(d) In a suit filed under this section, the attorney general must show that the notice required by Sections 74.201 and 74.203 has been given. 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 State Treasurer.

“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 State Treasurer may pay to the federal government from the unclaimed money fund the proportional share of the necessary cost of examining records.

“(b) If the federal government delivers unclaimed property to the State Treasurer, this state shall hold the federal government harmless from claims made by owners of the property after the delivery.

“Section 74.307. **LIST OF OWNERS.** (a) The State Treasurer 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 State Treasurer shall make the list available for public inspection during all reasonable business hours.

“[Sections 74.308-74.400 reserved for expansion]

#### “SUBCHAPTER E. DISPOSITION OF DELIVERED PROPERTY

“Section 74.401. **SALE OF PROPERTY.** (a) Except as provided by Subsection (c), the State Treasurer shall sell at public sale all personal property, other than money, delivered to the State Treasurer in accordance with Section 74.301. The State Treasurer shall conduct the sale in the city in this state that the State Treasurer determines affords the most favorable market for the particular property.

“(b) The State Treasurer shall sell the property to the highest bidder. If the State Treasurer determines that the highest bid is insufficient, the State Treasurer may decline that bid and offer the property for public or private sale.

“(c) The State Treasurer is not required to offer property for sale if the property belongs to a person with an address outside this state or the State Treasurer determines that the probable cost of the sale of the property exceeds its value.

“(d) If after investigation the State Treasurer determines that property delivered from a safe deposit box or other repository has insubstantial commercial value, the State Treasurer 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 State Treasurer under this section.

“Section 74.402. **NOTICE OF SALE.** Before the 21st day preceding the day on which a sale, public or private, is held under Section 74.401, the State Treasurer shall publish notice of the sale in a newspaper of general circulation in the county where the sale is to be 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 State Treasurer shall execute all documents necessary to complete the transfer of title.

“[Sections 74.404-74.500 reserved for expansion]

#### “SUBCHAPTER F. CLAIM FOR DELIVERED PROPERTY

“Section 74.501. **FILING OF CLAIM.** (a) Except as provided by Subsection (b), a claim for property or proceeds from the sale of property delivered to the State Treasurer under this chapter, including claims by other states, must be filed with the State Treasurer.

“(b) If a claim is for inactive property that was held by a depository before being delivered to the State Treasurer, the claim may be filed with the depository under Section 74.502.

“(c) All claims to which this section applies must be filed in accordance with procedures and on forms prescribed by the State Treasurer.

“Section 74.502. **CLAIM FILED WITH DEPOSITORY.** (a) If inactive property held by a depository under Chapter 73 is delivered to the State Treasurer under Section 74.301, a claim may be filed with the depository except that any claim by another state must be filed with the State Treasurer. The State Treasurer shall prescribe forms and procedures for filing claims with depositories.

“(b) If a claim is filed with a depository under this section and the depository determines in good faith that the claim is valid, the depository may pay the amount of the claim.

“(c) If the amount paid under Subsection (b) is \$100 or less, the State Treasurer shall reimburse the depository on receipt of a written statement subscribed and sworn to by an officer of the depository that states:

“(1) the name and address of the person to whom payment was made; and

“(2) that the depository believes in good faith that the claim is valid.

“(d) If the amount paid under Subsection (b) is more than \$100, the State Treasurer and the attorney general shall examine the claim and any supporting affidavit or evidence of the claim. Before the State Treasurer may reimburse a depository for a claim under this subsection, the claim must be approved and signed by the State Treasurer and the attorney general.

“Section 74.503. **CONSIDERATION OF CLAIM.** The State Treasurer and the attorney general or their authorized agents jointly shall consider the validity of each claim filed under this subchapter.

“Section 74.504. **HEARING.** (a) The State Treasurer and the attorney general may hold a hearing and receive evidence concerning a claim filed under this subchapter.

“(b) If the State Treasurer and the attorney general consider that a hearing is necessary to determine the validity of a claim, both the State Treasurer and the attorney general 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 State Treasurer and the attorney general determine that a claim is valid, they shall approve and sign the claim.

“Section 74.505. PAYMENT OF CLAIM. (a) If a claim is for money and has been approved under this subchapter, the State Treasurer shall pay the claim.

“(b) If a claim is for personal property other than money and has been approved under this subchapter, the State Treasurer promptly shall deliver the property to the claimant unless the State Treasurer has sold the property. If the property has been sold under Section 74.401, the State Treasurer 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 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, or in the county in which the claimed funds were deposited. 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 person who informs a potential claimant that the claimant may be entitled to claim property in the possession of the State Treasurer or a person who files a claim under this subchapter on behalf of a claimant may not contract for or receive from the claimant for services an amount that exceeds 10 percent of the value of the property recovered.

“[Sections 74.508-74.600 reserved for expansion]

#### “SUBCHAPTER G. UNCLAIMED MONEY FUND

“Section 74.601. FUND. (a) The State Treasurer shall maintain a fund known as the unclaimed money fund.

“(b) The State Treasurer shall deposit to the credit of the fund:

“(1) all funds delivered to the State Treasurer under this chapter or any other statute requiring the delivery of unclaimed property to the State Treasurer;

“(2) all proceeds from the sale of any property 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 fund.

“(c) The State Treasurer shall keep a separate record and accounting for delivered unclaimed property, other than money, before its sale.

“(d) The State Treasurer shall from time to time invest the amount in the unclaimed money fund that exceeds \$50,000 in investments approved by law for the investment of state funds.

“Section 74.602. USE OF FUND. (a) Except as provided by Subsection (b), the State Treasurer shall use the unclaimed money fund to pay the claims of persons or states establishing ownership of property in the possession of the State Treasurer under this chapter or under any other unclaimed property or escheat statute.

“(b) Any funds remaining in the unclaimed money fund shall be transferred, at least once each fiscal year, in an amount that in the State Treasurer’s judgment would leave a balance sufficient to pay the anticipated expenses and claims of the fund, to the foundation school fund and to the General Revenue Fund in equal amounts.

“(c) The State Treasurer and the attorney general may use the unclaimed money fund generally for the enforcement and administration of this title, including the expenses of sale, forms, notices, examinations, travel, court costs, supplies, equipment, employment of necessary personnel, and any other necessary expenses.

“Section 74.603. AUDIT; APPROPRIATION. The unclaimed money fund 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 State Treasurer 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 State Treasurer, the attorney general, or an authorized agent of either, at any reasonable time, may examine the books and records of any holder.*

“(b) *The State Treasurer, 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 use that information except in the course of a judicial proceeding, authorized by this chapter, in which the state is a party.*

“Section 74.703. ADDITIONAL PERSONNEL. (a) *The State Treasurer 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 State Treasurer or the attorney general requests, the State Auditor, state comptroller, banking commissioner, securities commissioner, insurance commissioner, savings and loan commissioner, Credit Union Commission, Department of Public Safety, or any district or county attorney shall assist the State Treasurer or attorney general in enforcing this title.*

“Section 74.705. PENALTIES. (a) *A holder commits an offense if the holder:*

“(1) *wilfully 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 title.*

“(b) *An offense under this section is punishable by:*

“(1) *a fine of not less than \$500 nor 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 holder 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 general shall collect the civil penalty by bringing suit on behalf of the state in a district court in Travis County, Texas.*

“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 interests, 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 a mineral interest and mineral proceeds if:*

“(1) *the mineral interest is located in this state;*

“(2) *the mineral proceeds result from the production of a mineral interest 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 mineral proceeds presumed abandoned under this chapter or the holder of a mineral interest from which the proceeds are derived 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.

“[Sections 75.002-75.100 reserved for expansion]

#### “SUBCHAPTER B. PRESUMPTION OF ABANDONMENT

“Section 75.101. *PRESUMPTION OF ABANDONMENT.* 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 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.”

**SECTION 18.** Section 91.403, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

“(c) The payor’s obligation to pay interest and the payee’s right to receive interest under Subsection (a) of this section terminate on delivery of the proceeds and accumulated interest to the State Treasurer as provided by Title 6, Property Code.”

**SECTION 19.** (a) Any remaining balances in the following funds as of the effective date of this Act shall be transferred to the unclaimed money fund created by this Act, and those funds are abolished:

- (1) escheat expense and reimbursement fund (Fund No. 152);
- (2) conservators expense fund (Fund No. 164);
- (3) dissolution of solvent corporations account (Fund No. 906);
- (4) settlement of estates account (Fund No. 907);
- (5) state hospitals inmates estate account (Fund No. 928);
- (6) escheated estates account (Fund No. 932);
- (7) prison system escheated estates account (Fund No. 939);
- (8) state conservator trust account (Fund No. 948);
- (9) escheat expense and reimbursement trust account (Fund No. 958); and
- (10) unclaimed funds from life insurance companies (Fund No. 959).

**SECTION 20.** (a) Section 71.007, Property Code, is repealed.

(b) Sections 72.104 and 72.105, and Subchapters C through H, Chapter 72, Property Code, are repealed.

(c) Sections 73.102, 73.103, and 73.104, and Subchapters C through F, Chapter 73, Property Code, are repealed.

(d) Chapter 321, Acts of the 66th Legislature, Regular Session, 1979 (Article 1581h, Vernon’s Texas Civil Statutes), is repealed.

**SECTION 21.** (a) Except as provided by Subsection (b) of this section, the first report filed under Title 6, Property Code, as amended by this Act shall be due on or before November 1, 1985, and shall include all property presumed abandoned or inactive under Title 6 as of June 30, 1985, unless the holder has previously reported or delivered the property to the State Treasurer.

(b) If the holder is a life insurance company the first report filed under Title 6, Property Code, as amended by this Act shall be due on or before May 1, 1986, and shall include all property presumed abandoned under Title 6 as of December 31, 1985.

(c) Property presumed abandoned or inactive under Title 6 of the Property Code before the effective date of this Act and for which a report has been filed with the State Treasurer shall be delivered to the State Treasurer in accordance with Title 6 of the Property Code as it existed before being amended by this Act, and that law is continued in effect for that purpose.

**SECTION 22.** This Act takes effect September 1, 1985.

**SECTION 23.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 28, 1985, by a viva-voce vote; passed the House on May 21, 1985, by a non-record vote.

Approved: June 3, 1985

Effective: September 1, 1985