

CHAPTER 163

H.B. No. 49

AN ACT

relating to payment of judgments not claimed by the prevailing party.

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

SECTION 1. Section 31.008, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 31.008. PAYMENT OF UNCLAIMED JUDGMENT. (a) A judgment debtor may pay to the court that rendered the judgment the amount under the judgment owed to a judgment creditor whose location is unknown to the judgment debtor if the judgment debtor complies with *Subsections* ~~[Subsection]~~ (b) and (c). The payment must be made without offset or reduction for any claims of the judgment debtor. The judgment debtor shall prepare a recordable release of the judgment. The judge or clerk of the court shall execute the release of the judgment on behalf of the creditor and issue the release to the debtor. The release shall recite the cause number, the court, the parties, the date of judgment, the amount of judgment, the amount paid into the court, and the date of the release.

(b) Before being entitled to pay a judgment to a court under Subsection (a), the judgment debtor shall send a letter notifying the judgment creditor of the judgment, by registered or certified mail, return receipt requested, to:

(1) the judgment creditor's last known address;

(2) ~~[and, if different from the creditor's last known address, to]~~ the address appearing in the judgment creditor's pleadings or other court record, *if different from the creditor's last known address;*

(3) *the address of the judgment creditor's last attorney, as shown in the creditor's pleadings or other court record; and*

(4) *the address of the judgment creditor's last attorney, as shown in the records of the State Bar of Texas, if that address is different from the address shown in the creditor's pleadings or other court record.*

(c) If the judgment creditor does not respond to a ~~[the]~~ notice under Subsection (b) on or before the 15th day after the date on which the notice was sent, the judgment debtor may file an affidavit with the court stating that the judgment debtor has provided the required notice, that the judgment creditor has not responded to the notice, and that the location of the judgment creditor is not known to the judgment debtor.

(d) ~~[(e)]~~ The court shall hold the amount paid to it by the judgment debtor under Subsection (a) and interest earned on that amount in trust for the judgment creditor.

(e) ~~[(d)]~~ The clerk of the court shall deposit the trust funds and any interest earned by the funds in the clerk's trust fund account. The clerk shall pay the funds and any interest earned by the funds to the judgment creditor or to the successors to the rights of the judgment creditor. The clerk may presume that the funds are payable to the judgment creditor unless the clerk is furnished with a written assignment of the judgment.

(f) ~~[(e)]~~ Funds held in the clerk's trust fund account in accordance with this section are subject to escheat under Chapter 72, Property Code.

(g) ~~[(f)]~~ In this section:

(1) "Judgment creditor" means a party in whose favor a judgment has been rendered, whether a plaintiff, counterclaimant, cross-claimant, third party plaintiff, or other judgment creditor.

(2) "Judgment debtor" means a party against whom a judgment is rendered.

SECTION 2. This Act applies to payment of unclaimed judgments rendered before, on, or after September 1, 1991, for which notice is given under Section 31.008(b), Civil Practice and Remedies Code, on or after the effective date of this Act. Payment of unclaimed judgments for which notice is given under Section 31.008, Civil Practice and Remedies Code, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 25, 1993, by a non-record vote; passed by the Senate on April 30, 1993: Yeas 28, Nays 0.

Approved May 17, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.