

CHAPTER 36

S.B. No. 384

AN ACT

relating to the management and control of state finances and generating additional revenue in connection with the unclaimed money fund; authorizing an appropriation.

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

ARTICLE 1. MANAGEMENT AND CONTROL OF CERTAIN STATE FUNDS

SECTION 1.01. Subsections (g) and (h), Section 17, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(g) Revenue, other than fines, collected under this Act *shall be deposited to the credit of the state pharmacy account in the general revenue fund in* [~~constitutes a fund outside~~] the state treasury. *Expenses* [~~from which the expenses~~] of administering this Act *shall be* [~~are~~] paid

out of the state pharmacy account. Money in the account [fund] may not be expended except pursuant to specific legislative appropriation in the General Appropriations Act. [~~An appropriation is not required for the investment of the fund by the board and for payment of customary fees or charges in connection with the investment.~~] Investment income shall be deposited in the account [fund]. The fines collected under this Act shall be deposited to the credit of the general revenue fund and may not be used for the administration of this Act. The board shall defray all expenses under this Act from fees provided in this Act, and the State of Texas shall never be liable for the compensation or expenses of any member of the board, or its officers or employees, or any other expenses thereof. The board's books and records are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(h) The board may receive and expend funds, in addition to funds collected under Subsection (g) of this section, from parties other than the state in accordance with state law. *Funds received shall be deposited to the credit of the state pharmacy account in the general revenue fund.*

SECTION 1.02. Subsection (i), Section 27A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) Funds and surcharges collected under this section shall be deposited in the account [fund] created under Subsection (g) of Section 17 of this Act, and may be used by the board to administer the program authorized by this section, including the provision of initial evaluation and referral services of a qualified health professional to an impaired pharmacist or pharmacy student and to pay the administrative costs incurred by the board in connection with that funding, but not for costs incurred for treatment or rehabilitation subsequent to such initial evaluation and referral services.

SECTION 1.03. Subsection (k), Section 2.09, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(k) The board shall establish by rule a reasonable charge for those fees not specifically determined but authorized by this Act. The board may not waive collection of any fee or penalty. The board shall place all fees received under authority of this Act, not otherwise specified, into the medical licensing fund *in the state treasury*. The board is authorized and shall by annual budget determine the manner of handling the funds and the purpose, consistent with this Act, for which the same may be used. The budgeted expenses authorized by the board shall *be paid out of funds received by the board and are not* [be] a charge upon the general revenue of the state [~~nor paid from the general revenue~~].

SECTION 1.04. Subchapter B, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Section 2.10 to read as follows:

Sec. 2.10. CREATION OF FUNDS. (a) The medical licensing fund is created as an account in the general revenue fund. Unless otherwise provided by this Act, all fees, charges, and penalties, other than registration fees, received by the board shall be deposited in the state treasury to the credit of the medical licensing fund.

(b) The medical registration fund is created as an account in the general revenue fund. All registration fees received under this Act shall be deposited in the state treasury to the credit of the medical registration fund.

SECTION 1.05. Section 771.051, Health and Safety Code, is amended to read as follows:

Sec. 771.051. POWERS AND DUTIES OF ADVISORY COMMISSION. (a) The advisory commission shall:

- (1) administer the implementation of statewide 9-1-1 service;
- (2) develop minimum performance standards for equipment and operation of 9-1-1 service to be followed in developing regional plans under Section 771.055, including requirements that the plans provide for:

(A) automatic number identification by which the telephone number of the caller is automatically identified at the public safety answering point receiving the call; and

(B) other features the commission considers appropriate;

- (3) examine and approve or disapprove regional plans as provided by Section 771.056;

(4) recommend minimum training standards and provide assistance in the establishment and operation of 9-1-1 service; [and]

(5) allocate money to prepare and operate regional plans as provided by Section 771.056; and

(6) accept, receive, and deposit in its account in the general revenue fund gifts and grants from public and private entities. Gifts and grants may be used for the purposes of the commission.

(b) The advisory commission shall comply with state laws requiring state agencies, boards, or commissions generally to submit appropriations requests to the Legislative Budget Board and the governor and to develop a strategic plan for operations.

SECTION 1.06. Subsection (e), Section 771.072, Health and Safety Code, is amended to read as follows:

(e) The advisory commission shall deposit [manage] the surcharges and any prior balances in an account in the general revenue fund in [outside] the state treasury until they are allocated to regional planning commissions. From that account, [~~The advisory commission may retain from the surcharges~~] the amount necessary for the commission to fund approved plans of regional planning commissions and to carry out its duties under this chapter shall be appropriated to the commission.

SECTION 1.07. Section 403.096, Government Code, is amended by adding Subsection (i) to read as follows:

(i) In addition to other information included in its report under this section, the committee shall review funds held outside the state treasury by state agencies and institutions of higher education and make recommendations on the disposition of those funds. Recommendations to the 74th Legislature shall include an analysis of the use of funds held outside the state treasury and the advisability of moving those funds into the treasury. As part of the report, the committee should propose guidelines that could be used in determining when funds should be held locally in bank accounts and when funds should be deposited in the state treasury. This subsection expires September 1, 1995.

SECTION 1.08. This article takes effect immediately, except that Sections 1.01, 1.02, 1.03, 1.04, and 1.06 of this article take effect August 31, 1994.

ARTICLE 2. FUND BALANCES--BONDS

SECTION 2.01. Section 4, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (f) to read as follows:

(f) The authority shall provide an accurate estimate of interest and sinking fund balances available for payment of debt service on general obligation bonds to the Legislative Budget Board and the Governor's Office of Budget and Planning not later than January 1 of each odd-numbered year.

SECTION 2.02. This article takes effect immediately.

ARTICLE 3. UNCLAIMED MONEY FUND

SECTION 3.01. Subsections (b) through (g), Section 72.101, Property Code, are amended to read as follows:

(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 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 is presumed abandoned under this section, any sum then held for interest 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. [Except as provided by Subsections (d), (e), and (g), 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 three years and the owner within three 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 three-year period.~~

~~[(c) The period leading to a presumption of abandonment under Subsection (b) commences on the date that a communication from the association to the owner is returned undelivered by the United States Postal Service.~~

~~[(d) At the expiration of a three-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 three dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If three dividends, distributions, or other sums are paid during the three-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 three dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been three dividends, distributions, or other sums that have not been claimed by the owner.~~

~~[(e) The running of the three-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.~~

~~[(f) 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.~~

~~[(g) 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 is subject to the presumption of abandonment as provided by Subsection (a).]~~

SECTION 3.02. Section 73.003, Property Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(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 for more than one year.

(d) *For purposes of presumption of abandonment under Section 73.101, the five-year period of inactivity for accounts begins on the date of the last transaction or correspondence by the depositor. The five-year period of inactivity of safe deposit boxes begins on the date the rental was due but not paid.*

SECTION 3.03. Section 74.201, Property Code, is amended by adding Subsection (d) to read as follows:

(d) *The State Treasurer 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.*

SECTION 3.04. Subsection (a), Section 74.401, Property Code, is amended to read as follows:

(a) Except as provided by Subsection (c), the State Treasurer shall sell at public sale all personal property, other than money and marketable securities, 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.

SECTION 3.05. Section 74.402, Property Code, is amended to read as follows:

Sec. 74.402. NOTICE OF SALE. Before the 21st day preceding the day on which a public 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 3.06. Section 74.503, Property Code, is amended to read as follows:

Sec. 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 3.07. Section 74.504, Property Code, is amended to read as follows:

Sec. 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 *considers* [~~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 *determines* [~~and the attorney general determine~~] that a claim is valid, *the State Treasurer* [~~they~~] shall approve and sign the claim.

SECTION 3.08. Subsection (c), Section 74.505, Property Code, is amended to read as follows:

(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, *except as provided by Section 74.509.*

SECTION 3.09. Section 74.507, Property Code, is amended to read as follows:

Sec. 74.507. FEE FOR RECOVERY. A person who informs a potential claimant that the claimant may be entitled to claim property that is reportable to the State Treasurer under this chapter, that has been reported to the State Treasurer, or that is in the possession of the State Treasurer, [~~or a person who files a claim under this subchapter for such property 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. 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 3.10. Subchapter F, Chapter 74, Property Code, is amended by adding Section 74.509 to read as follows:

Sec. 74.509. *HANDLING FEE FOR PROCESSING UNCLAIMED PROPERTY. The State Treasurer shall charge a person claiming unclaimed property a handling fee if ownership of the property is reinstated and the value of the property is \$50 or more.*

SECTION 3.11. Section 74.601, Property Code, is amended by amending Subsections (b) and (d) and adding Subsections (e) and (f) to read as follows:

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

(1) all funds, *including marketable securities*, 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, *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 fund.

(d) *Except as provided by Subsection (e), the [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.*

(e) The State Treasurer 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 State Treasurer shall exercise the judgment and care of a prudent person.

(f) The State Treasurer shall keep a separate record and accounting for securities delivered, sold, purchased, or exchanged and the proceeds and earnings from the securities.

SECTION 3.12. Subsection (b), Section 74.702, Property Code, is amended to read as follows:

(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 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 3.13. Subsection (d), Section 74.602, Property Code, is repealed.

SECTION 3.14. This article takes effect September 1, 1993.

ARTICLE 4. EMERGENCY

SECTION 4.01. 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 according to its terms, and it is so enacted.

Passed the Senate on February 25, 1993: Yeas 31, Nays 0; the Senate concurred in House amendments on April 7, 1993: Yeas 29, Nays 0; passed the House, with amendments, on March 25, 1993: Yeas 132, Nays 0, one present not voting.

Approved April 19, 1993.

Effective immediately, except §§ 1.01 through 1.04 and 1.06 effective Aug. 31, 1994 and §§ 3.01 through 3.14 effective Sept. 1, 1993.