

PROPERTY CODE
CHAPTER 76. REPORT, DELIVERY, AND CLAIMS PROCESS FOR CERTAIN
PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 76.001. APPLICABILITY. This chapter applies only to the holder of property if:

(1) the holder is a school district, municipality, or county; and

(2) the property is:

(A) presumed abandoned under Chapter 72 or 75; and

(B) valued at \$100 or less.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1015, Sec. 1, eff. Sept. 1, 2000.

Sec. 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;

(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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1015, Sec. 2, eff. Sept. 1, 2000.

SUBCHAPTER B. PROPERTY REPORT

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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."

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

SUBCHAPTER C. NOTICE

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

SUBCHAPTER D. DELIVERY

Sec. 76.301. DELIVERY OF PROPERTY TO TREASURER. (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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1,

1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

SUBCHAPTER E. DISPOSITION OF DELIVERED PROPERTY

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

SUBCHAPTER F. CLAIM FOR DELIVERED PROPERTY

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 76.502. CONSIDERATION OF CLAIM. The treasurer of the holder shall consider the validity of each claim filed under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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).

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

SUBCHAPTER G. UNCLAIMED MONEY FUND

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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 funds 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

SUBCHAPTER H. ENFORCEMENT

Sec. 76.701. RULES. The treasurer of the holder may adopt rules necessary to carry out this chapter.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.

Sec. 76.704. OFFENSE. (a) A person commits an offense if the person:

(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 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.

Added by Acts 1997, 75th Leg., ch. 1037, Sec. 38, eff. Sept. 1, 1997.