

COUNTY TREASURER'S UNCLAIMED PROPERTY PROGRAM

1. BACKGROUND

The Texas Property Code (TPC) Chapters 72-76 govern unclaimed property in the State of Texas. Chapters 72-75 require holders to report and remit abandoned (i.e. unclaimed) property to the Texas Comptroller of Public Accounts. Chapter 76 requires holders to report and remit abandoned (i.e. unclaimed) property valued at \$100.00 or less to the County Treasurer.

2. PURPOSE

The purpose of the *County Treasurer's Unclaimed Property Program Policy and Procedures* is to implement and establish procedures, by the County Treasurer, for the reporting, delivery, public notification, claims processing, enforcement, and accounting of locally reported unclaimed (i.e. abandoned) property with a value of \$100.00 or less by county departments/offices (i.e. holders).

3. DEFINITIONS

- A. Presumed Abandoned** - In accordance with §72.101 of the TPC, property is presumed abandoned if the following condition(s) exist for longer than three (3) years:
- 1) the existence and location of the owner of the property is unknown to the holder of the property; and
 - 2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.
- B. Property Code** - Code used to identify the type of property subject to abandonment provisions (see Attachment A, *Property Type & Abandonment Schedule*).
- C. Property subject to abandonment provisions** - Consists of, but is not limited to the following:
- 1) all funds and property held in trust for others (i.e. escrow funds, child support, restitution, inmate accounts, civil deposits, etc.) and the funds held in the court registry (including cash bonds).
 - 2) outstanding claims where, due to County policy, no warrant or check was issued.
 - 3) outstanding refund checks for cash bonds, bail bonds, escrow funds, child support, restitution, inmate accounts, etc.

4. PROCEDURES FOR UNCLAIMED PROPERTY

A. Reporting:

1. County departments/offices (i.e. holders) review as of June 30th of each year, outstanding items valued at \$100.00 or less in order to determine if any item meets the abandonment conditions as indicated in *Attachment A Property Type & Abandonment Schedule*, which is published by the Texas Comptroller of Public Accounts in the following website <http://www.window.state.tx.us/up/reporting.html>.
2. County departments/offices (i.e. holders) complete the County Treasurer Form TR-NG-030 *Unclaimed Property Report* listing all items considered to be abandoned/unclaimed using the following guidelines:
 - a) Listing is in alphabetical order.
 - b) Listing contains the name and last known address of each person who appears to be the owner of the property.
 - c) Listing includes a brief description of the unclaimed property for each respective presumed owner.
 - d) Personal tangible property items should have a value of \$0. The value of \$0 indicates that the item is personal tangible property and is subject to disposition procedures by the County Treasurer in accordance with TPC Chapt. 76 Subchapter E-Disposition of Delivered Property.
 - e) The completed *Unclaimed Property Report* contains the department name & number remitting the funds to the Treasurer's office.
 - f) The completed *Unclaimed Property Report* must be signed by the department head/elected official.
3. County departments/offices (i.e. holders) shall keep records of unclaimed property reported to the County Treasurer for a period of ten (10) years, in accordance with TPC §76.103(1-3).
4. County departments/offices (i.e. holders) shall keep the *Unclaimed Property Reports* filed with the County Treasurer confidential for a period of two (2) years from the date the report is filed with the County Treasurer. **In addition, the social security number of an owner that is reported to the County Treasurer is confidential** (TPC §76.104(a-b)).

B. Delivery:

1. County departments/offices (i.e. holders) who on June 30th hold unclaimed (i.e. abandoned) property shall deliver the unclaimed property to the County Treasurer on or

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before the following November 1st along with the completed County Treasurer Form TR-NG-030 *Unclaimed Property Report* (TPC §76.301(a-b)).

2. County departments/offices (i.e. holders) must deliver by email the completed electronic *Unclaimed Property Report* to the County Treasurer. In addition, county departments/offices (i.e. holders) must complete and file with the County Treasurer the *Unclaimed Property Report* **each successive year regardless** of whether the county department/office (i.e. holder) has any reportable property.
3. County departments/offices (i.e. holders) must prepare a remittance check and deliver it to the County Treasurer for deposit to the credit of the *Unclaimed Money Fund*. The remittance check should be for unclaimed funds **excluding unclaimed tangible property**.
4. The County Treasurer verifies the correctness and completeness of the *Unclaimed Property Report* filed by the county department/office (i.e. holder) along with the remittance check and resolves discrepancies with the respective department/office, if needed.
5. If the *Unclaimed Property Report* filed by the county department/office (i.e. holder) with the County Treasurer contains **unclaimed tangible property** other than cash and marketable securities, the County Treasurer shall follow the statutory disposition procedures in accordance with TPC Chapt. 76 Subchapter E - Disposition of Delivered Property.
6. The County Treasurer deposits remittance check submitted by the county department/office (i.e. holder) to the credit of the *Unclaimed Money Fund* and issues an official County Treasurer receipt. In addition, proceeds from unclaimed tangible property other than cash and marketable securities disposed of in accordance with TPC Chapt. 76 Subchapter E shall also be deposited to the credit of the *Unclaimed Money Fund* and the County Treasurer issues an official County Treasurer receipt for the proceeds.
7. The County Treasurer shall compile and revise each year an alphabetical list of names and last known addresses of the owners listed in the *Unclaimed Property Reports* filed by county departments/offices (i.e. holders) and respective amount credited to each account in accordance with statutory provisions. The County Treasurer shall make the list available for public inspection during all reasonable business hours (TPC §76.303(a-b)).

C. Published Notification:

1. In accordance with statutory provisions, (TPC §76.201(b-c)), the County Treasurer shall publish notice in a newspaper of general circulation or may use a different method if the Treasurer determines that the different method would be as likely as the newspaper of general circulation to give actual notice to the person required to be named in the notice, immediately following the year in which the *Unclaimed Property Reports* are filed by county departments/offices (i.e. holders). The published notice must state the following:
 - a) The reported property is presumed to be abandoned, and subject to TPC Chapter 76.

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- b) Any person possessing a legal or beneficial interest in the reported property may inquire with the County Treasurer and obtain information concerning the amount of the property.
 - c) The presumed owner of the reported property may present proof of the claim to the County Treasurer and establish rightful ownership of the unclaimed (i.e. abandoned) property.
2. In addition to the notice published, the County Treasurer will publish in the County's website an alphabetical list, which identifies the owner's last and first name or business name (as applicable) and the respective amount of unclaimed property for each respective owner. The Unclaimed Property list is also available for public inspection during regular business hours at the County Treasurer's Office. **The social security number of the owner, if known, is considered confidential and not to be released for public inspection.**
3. Upon discretion exercised by the County Treasurer and during the year immediately following the year in which the *Unclaimed Property Reports* are filed by county departments/offices (i.e. holders) , the County Treasurer may mail a notice to each person who has an address in this state and appears to be entitled to the reported property. The mailed notice must state the following:
 - a) Unclaimed (i.e. Abandoned) property is being held at the County Treasurer to which the addressee appears to be entitled.
 - b) The presumed owner may present proof of the claim to the County Treasurer and establish rightful ownership of the unclaimed property.
4. The Treasurer may charge the following against the property delivered under TPC Chapter 76:
 - a) Expenses incurred for the publication of notice required by TPC §76.201.
 - b) The amount paid in postage for the notice to the owner required by TPC §76.202.

D. Claims Processing:

1. Potential claimant(s) verifies list of Unclaimed Property for items with a value of \$100.00 or less, as published by the County Treasurer. Claimants can also verify the Unclaimed Property list at the County Treasurer's Office during regular business hours.
2. Claimant(s) files, with the County Treasurer's Office, the County Treasurer Form TR-NG-010, *Request for Unclaimed Property Distribution*.
3. After claim is filed by claimant(s), the County Treasurer verifies identity of claimant(s)

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by verifying an unexpired official state issued identification (ID).

4. Claimant(s) acknowledges identity by signing the *Request for Unclaimed Property Distribution* form *under oath* in the presence of a notary public.
5. Upon determination made by the County Treasurer, the claim filed may be approved or denied. The County Treasurer may hold a hearing and receive evidence by the potential claimant(s) concerning the claim filed in order to determine the validity of a claim. The decision made by the County Treasurer, after the hearing is conducted, shall be made in a statement addressing the findings and decision rendered and is made public record (TPC §76.503(a-b)).
6. If claim is approved, the County Treasurer issues out check, after review and audit procedures are completed by the County Auditor, to the claimant(s) and updates the Unclaimed Property list to reflect the following information for claims filed:
 - a) Date claim was submitted by claimant to the Treasurer's Office
 - b) Action taken by the Treasurer's Office in reference to the claim filed (i.e. acceptance or denial of claim)
 - c) The check number, date, and amount issued to claimant in relation to the property being claimed
 - d) Updates the last known name and address of claimant (if necessary)
7. If claim is denied by the County Treasurer, the potential claimant(s) may appeal the decision by filing suit against the holder in a district court before the 61st day after the date the decision was rendered. If the County Treasurer has not rendered a decision before the 91st day after the claim is filed, the claimant may appeal within the 60 day period beginning on the 91st day after the date of filing. The holder's immunity from suit without consent is waived (TPC §76.505 (a-c)).
8. The County Treasurer keeps a copy of the completed *Request for Unclaimed Property Distribution* form and any other pertinent documentation in relation claims filed for reference purposes for a period of ten (10) years and updates the Unclaimed Property listing, as necessary.

E. Enforcement:

1. The County Treasurer may adopt rules necessary to enforce and carry out the Unclaimed Property Program in accordance with TPC Chapter 76.
2. The County Treasurer may, at any reasonable time, examine the books and records of county departments/offices (i.e. holders) in order to determine whether *Unclaimed Property Reports* have been made by the county departments/offices (i.e. holders) as required.

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3. The County Treasurer may employ additional personnel necessary to enforce the Unclaimed Property Program. The salary of the personnel employed shall be paid in accordance with the acceptable uses of the *Unclaimed Money Fund*.
4. A person (i.e. holder) commits an offense if the person:
 - a) willfully fails to file an unclaimed property report as required by the County Treasurer
 - b) refuses to permit the examination of books & records by the County Treasurer
 - c) makes a deduction from or a service charge against a dormant account or dormant deposit of funds; or
 - d) violates any other statutory requirements in relation to the Unclaimed Property Program administered by the County Treasurer
5. If a person (i.e. holder) is found to be in violation of the Unclaimed Property Program administered by the County Treasurer, an offense committed is punishable by:
 - a) a fine of not less than \$500.00 or more than \$1,000.00
 - b) confinement in jail for a term not to exceed six months
 - c) both the fine and confinement
 - d) in addition to a criminal penalty, the person may be subject to a civil penalty not to exceed \$100.00 for each day of the violation.

F. Accounting:

1. In accordance with statutory provisions (TPC §76.601 (a-b)), the County Treasurer shall maintain a fund known as the *Unclaimed Money Fund* and shall deposit to the credit of the fund:
 - a) All funds, including marketable securities, delivered by holders
 - b) All proceeds from the sale of any property, including marketable securities, and
 - c) Any income derived from investments of the fund.
2. The County Treasurer, after deducting funds sufficient to pay anticipated expenses and claims of the *Unclaimed Money Fund*, may transfer the remainder from the *Unclaimed Money Fund* to the *General Fund* at the end of the County's fiscal year (TPC §76.602(b)).

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- a) The County Treasurer, upon request, may seek guidance from the Department of Budget & Management (DBM) and/or the County Auditor's office in order to determine sufficient funds to pay anticipated expenses and claims of the *Unclaimed Money Fund*, and the remainder funds to transfer to the *General Fund*.
 - b) The County Treasurer may use the *Unclaimed Money Fund* generally for the administration and enforcement of the Unclaimed Property Program, including expenses of forms, notices, examinations, travel, court costs, supplies, equipment, and employment of necessary personnel and other necessary expenses (TPC §76.602(c)).
3. The County Treasurer seeks Commissioners Court approval to transfer the remainder funds from the *Unclaimed Money Fund to the General Fund* at the end of the County's fiscal year.
 4. If Commissioners Court approves transfer of the remainder funds from the *Unclaimed Money Fund to the General Fund*, the County Treasurer keeps copy on file of the transfer (i.e. journal entry ledger) performed by the Auditor's office and Commissioners Court agenda minutes for reference purposes.
 5. The County Treasurer maintains copies of records in relation to the Unclaimed Property Program for a period of ten (10) years, which is subject to audit by the County Auditor's Office and budgetary procedures adopted by Commissioners Court (TPC §76.603(1-2)).

5. REFERENCES

- A. County Treasurer Form TR-NG-030, *Unclaimed Property Report*
- B. County Treasurer Form TR-NG-010, *Request for Unclaimed Property Distribution*
- C. Attachment A, *Property Type & Abandonment Schedule*