

# The State of Texas Unclaimed Property Program:

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## Come and Get It

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## Purpose of Unclaimed Property Laws

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“The major purpose of the Acts are two-fold:

- to protect the owner by giving the owner the opportunity to recover the property from the custodian of the property, the state, at any time; and
- to give the state rather than the holder of the unclaimed property the benefit of the use of the property until the owner claims it.”

*Employers Ins. Of Wausau v. Smith*, 154 Wis. 2d 199, 205–06, 453 N.W.2d 856, 858 (1990)

## Historical Basis of Unclaimed Property

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- Historical roots in feudal England where Crown was considered ultimate owner of all land
- Some personal property could escheat to Crown under doctrine of bona vacantia
- Following American Revolution in common law the states replaced feudal lord for purposes of escheat
- Texas has had escheat since independence from Mexico

## Modern Basis of Unclaimed Property

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- In modern law, States assert escheat rights based on police powers
- Modern cases rely on statutory interpretation rather historical common law
- Limited case law about unclaimed property
  - On federal level cases are about which state has right to funds
  - On state level most cases are about holder responsibilities and not claims

# Texas Unclaimed Property

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State statutes typically follow two types of escheat schemes

- Absolute escheat
  - Title to property vests in state
- Custodial escheat
  - State holds property but does not take title

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If reported property is delivered to the Comptroller, the state shall assume custody of the property and responsibility for its safekeeping.

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Texas Property Code §74.304(a)

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- Generally, no time limit to come forward to make a claim for return of property
- Chapter 551, Estates Code is an exception to general scheme

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Come and Get It.

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