

The State of Texas Unclaimed Property Program:

Come and Get It

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Purpose of Unclaimed Property Laws

“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

- 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

- 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

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

“

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)

- 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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