

POLICY AND PROCEDURES
FOR CENTRALIZED UNCLAIMED FUNDS REPORTING
TRINITY COUNTY, TEXAS

THE PURPOSE OF THIS POLICY AND RELATED PROCEDURES IS TO ESTABLISH AND STANDARDIZE AN ACCOUNTING POLICY FOR THE HANDLING OF UNCLAIMED FUNDS LESS THAN \$100.

THIS POLICY IS ALSO APPLICABLE TO HOLDERS CHOOSING TO CENTRALIZE THE ACCOUNTING AND REPORTING OF UNCLAIMED FUNDS OVER \$100 WITH THE TRINITY COUNTY TREASURER.

THE EFFECTIVE DATE OF THIS POLICY IS THE 11TH DAY OF APRIL 2016.

Chapters 72 through 76 of the Texas Property Code set the requirements for unclaimed property. Section 72.001 (e) defines a “holder” as a “person, wherever organized or domiciled, who is : (1) in possession of property that belongs to another, (2) a trustee; or (3) indebted to another on an obligation.” Chapter 72.001 (d)also states “A holder of property presumed abandoned under this chapter is subject to the procedures of Chapter 74.” Chapter 74 requires annual reporting and remittance of unclaimed property to the Texas Comptroller of Public Accounts for amounts over \$100.

Each elected officer or department head with signature authority/responsibility for a bank account would be considered a holder under these statutes. Additionally, the Trinity County Treasurer is a holder of property and as such is required to report and remit amounts over \$100 to the Comptroller annually. Chapter 76 of the Property Code requires holders of property to report and remit amounts less than or equal to \$100 to the County Treasurer. The County Treasurer is responsible for development and management of an unclaimed property program for amounts equal to or less than \$100.

In order to improve efficiency and reduce the amount of time and reports required, the Trinity County Treasurer has agreed to act as the holder for unclaimed property over \$100 for Trinity County until such time the funds can be remitted to the State. This allows each elected official/department head to submit the information and funds to the Treasurer when property dormancy has occurred and provides for centralized reporting to the Comptroller. If the elected official/department head chooses to retain their holder status for funds greater than \$100, they will be responsible for reporting and remitting the property to the Comptroller as set out in Chapter 74 of the Property Code. Elected officials/department heads choosing to retain their holder status for funds over \$100 are asked to notify the Treasurer’s office in writing.

A. GENERAL DEFINITIONS

1. **INMATE TRUST FUNDS** – Undeliverable or uncashed checks for the balance of inmate trust funds while in jail. Sent to the County Treasurer after 1 year and due diligence.
2. **“STALE” CHECKS** – Uncashed checks written by any local official with a checking account. Sent to the County Treasurer after 1 year and due diligence.
3. **TRUST FUNDS** – Funds of minors, or persons determined to be incompetent. The dormancy period begins on these funds after a disbursement order has been signed by the Judge and the check has been sent to the last known address. Funds sent to the County Treasurer after 1 year and due diligence.
4. **INTERPLEADED (CIVIL) CASES** – Until a case is resolved, the court may require rent or other payments to be made to the registry. Dormancy period begins after disbursement order from the court and a check has been issued by the office to the last known address. Funds sent to the County Treasurer after 1 year and due diligence.
5. **FUNDS PAID IN SATISFACTION OF A JUDGEMENT** – Includes payments into a registry by court order and payments by judgment debtor to satisfy a claim when a judgment creditor cannot be found. Funds sent to the County Treasurer after 1 year and due diligence.
6. **CASH BONDS** – Bonds required in civil cases for specific performance, injunctions, sequestrations, TROs , and others. Dormancy period begins after court has released funds and check has been sent to the last known address. Funds sent to the County Treasurer after 1 year and due diligence.
7. **FUNDS IN AN EMINENT DOMAIN PROCEEDING** – Final proceeds from condemnation proceedings. Sent to the County Treasurer after 1 year and due diligence.
8. **DIVORCE CASES** – Property and funds from divorce cases required to be paid into the registry of the court. Dormancy period begins after judgment ordering disbursement and check has been mailed to the last known address. Funds sent to the County Treasurer after 1 year and due diligence.
9. **CHILD SUPPORT FUNDS** – Only applicable to checks/money orders made payable to the clerk. Checks/money orders made payable to the mother, father, guardian, etc. are not negotiable by the clerk and are not to be reported or remitted as unclaimed funds. Funds held more than 3 days are considered dormant. Sent to the County Treasurer after 1 year and due diligence.
10. **DORMANCY** – Property/funds that remain inactive. Departments should consider property/funds dormant when it has been inactive for 1 year and is not waiting on a judgment or other governmental action to disburse. The County Treasurer should consider unclaimed property dormant from date property is received from a

department, based on the schedule provided by the Texas Comptroller of Public Accounts.

11. **ESCHEAT FUNDS** - Property due to unidentified heirs when a person dies without a will. There is no waiting period for dormancy. The State may begin acquisition proceedings as soon as the court renders its judgment.
12. **PROBATE FUNDS** - Property due to identified but unlocated heirs when a person dies with a will. Dormancy begins six months after final accounting. These require a court order to pay County Treasurer/Comptroller.
13. **CASH BAIL BONDS** - Unclaimed criminal cash bail bonds are registry funds but CCP Art. 17.02 require court order to release. These require reporting but **not** release to state or local treasurer without court order. "Dormancy period begins on the date of entry of final judgment or order of dismissal in the action in which the funds were deposited" Section 117.002 of the Local Government Code and Supreme Court of Texas Opinion No. 98-0784.
14. **PROPERTY TAX REFUNDS DUE TO TAX ROLL CHANGES** - Unclaimed refunds due to a change in the tax roll value. Claims do not expire. Must be refunded automatically. Sent to the County Treasurer after 1 year and due diligence.
15. **COUNTY TREASURER'S CHECKS** - Uncashed checks issued by the County Treasurer become non-negotiable after 1 year. Upon expiration, these funds become county revenue.
16. **JUROR CHECKS** - Uncashed juror checks become non-negotiable after 1 year. These funds become county revenue upon expiration.
17. **UNCLAIMED WAGES** - An amount of unclaimed wages is presumed abandoned if the existence and location of the person is unknown for longer than one year and a claim to the wages has not been asserted or an act of ownership of the wages has not been exercised. Presumably all wages are paid through the Trinity County Treasurer and unclaimed wages will be remitted to the Unclaimed Fund after 1 year and due diligence.
18. **PROPERTY TAX REFUNDS** - Erroneous and overpayments. Sent to the County Treasurer after 1 year and due diligence. These claims expire after 3 years and become county revenue.
19. **EXCESS OF TAX LIABILITY FROM FORCED SALES** - Unclaimed excess of tax liability due to original property owner. Funds are distributed to each taxing unit in proportion to original claim 2 years after sale. Funds are never remitted to Treasurer or Comptroller.

B. UNCLAIMED FUNDS

Section 76.601 of the Texas Property Code states the Treasurer of the depository shall maintain a fund known as the unclaimed money fund or abandoned property less than \$100. Monies are considered unclaimed when checks have been disbursed, but have not been negotiated or have been returned by mail. All funds submitted as unclaimed to the

County Treasurer should have adequate information detailing owner's name, social security number, driver's license or state identification number, email address, and last known address. It should also include a description of the property (i.e. refund, erroneous/overpayment, tax roll changes, etc), a balance of the account, and date of last transaction with the owner concerning the property, and any other information that might be deemed necessary. This information should be provided by the department remitting unclaimed funds to the County Treasurer. Departments will be accountable for the funds in their depository accounts to determine if they meet the requirements, as defined, to be remitted to the Treasurer's office as unclaimed funds. It will be the responsibility of the department to send letters of due diligence to the owner's prior to remitting any funds as unclaimed.

C. DUE DILIGENCE

Departments will be responsible for the due diligence requirements established by the Texas Property Code Sec 74.1011 on all funds that are dormant. Once the department has found property to be dormant for 1 year, a letter of due diligence must be sent to the last known address of the owner notifying them of the property and providing the owner a method for claiming the property. If the property is claimed, the department shall void original payment, if necessary, and re-issue payment, However, if no response is received or letter is returned by mail within 30 days of mailing, a copy of the letter and the funds are to be submitted to the County Treasurer as unclaimed.

D. COUNTY VENDOR CHECKS

Checks that are paid to County vendors for goods or services will be reviewed with the monthly bank reconciliation. These checks become non-negotiable after 1 year. The Treasurer's office will be responsible for due diligence on vendor checks and will mail out affidavits regarding any outstanding payments to vendors for goods/services. Once the vendor has contacted the County for collection of monies owned to them, the original check will be voided and re-issued. However, if no response is received from the vendor within the allotted time, the original check will be voided and the monies will be remitted to the State following the dormancy period of 3 years.

E. PUBLISHED NOTICE

The County will provide information on the county website regarding unclaimed funds. This information will include a list of names, general information, required documentation for making a claim, and claim forms.

A detailed list of unclaimed property will be provided to the Information Technology department annually in the calendar year immediately following the year which the property report is filed. This is to be published on the county website. The County Treasurer

may /shall also publish a notice in the newspaper notifying the public of the unclaimed funds posting.

F. CLAIMING PROPERTY

The County Treasurer will be responsible for reviewing all claims and required documentation, in an effort to determine if sufficient proof of ownership has been submitted. Claims that have been reviewed and verified will be processed to remit property back to the owner. If it is determined that sufficient proof of ownership has not been provided, payment will not be made.

Procedure: The claim form will include instructions for its completion and describes documentation needed in addition to the form. All claims have general requirements such as:

- Standard forms of identification for the owner and the claimant, if someone other than the original owner is claiming.
- Verification of the reported address if different from the current address
- Death certificate and probated will or other heirship documents if the original owner is deceased

G. REPORTING UNCLAIMED FUNDS TO THE STATE

The Treasurer's office is responsible for the property/funds remitted to them as Unclaimed Funds. All monies in the Unclaimed Funds account are reconciled monthly to the general ledger and reported to the Auditor's office.

The reporting period for the State is three years back starting on July 1st and ending June 30th. Property reported to the Treasurer as unclaimed is held three (3) years from the date it is received before considered for reporting to the Texas Comptroller as Unclaimed Funds. The County Treasurer will perform the required due diligence on all funds that have been remitted to the County Treasurer as of the effective date of this policy.

The Unclaimed Funds data will be compiled and all eligible amounts in the account over \$100 will be entered into the Texas Comptroller's website timely after the report is filed. A payment for the amount reported to the State will be disbursed payables to the Texas Comptroller of Public Accounts.

H. RECORD RETENTION

The Treasurer's office shall retain a record of all property reported to the state for 10 years from the date which the property is reportable, as stated in Section 74.103 of the Property Code. The Treasurer's office may choose to maintain a hard copy or an electronic copy of all payments deemed unclaimed funds.