

SUBJECT: Release of unclaimed property subject to a child support lien

COMMITTEE: Government Reform — committee substitute recommended

VOTE: 7 ayes — Uresti, Otto, Y. Davis, Frost, Gonzales, Hunter, Veasey
0 nays

WITNESSES: For — Janis Wagner

Against — None

On — Laywon Boatner, Comptroller of Public Accounts; (*Registered but did not testify* – George Tamayo, Comptroller of Public Accounts; John O'Connell, Child Support Division, Office of the Attorney General).

BACKGROUND: Under Family Code, chap. 157, a person who is owed past due child support may enforce the obligation through a lien to encumber the obligor's real or personal property.

Property Code, sec. 74.501(e), specifies certain persons, including lienholders, to whom the comptroller may not pay claims on unclaimed property that has defaulted to the comptroller before it has been claimed by the reported owner.

DIGEST: CSHB 81 would exempt from the list of persons to whom the comptroller may not pay claims from unclaimed property the holder of a child support lien that complied with the requirements of Family Code, sec. 157.313. It would permit the comptroller to approve a claim for outstanding child support owed by the reported owner of property and to release the property to the child support lienholder or to the attorney general on behalf of the lienholder.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005, and would apply only to claims filed on or after the effective date.

**SUPPORTERS
SAY:**

Property claimed through the comptroller already is subject to child support liens before being disbursed to a claimant. CSHB 81 would prevent families from having to wait until the owner makes a claim on the property before they could obtain the funds.

The bill would provide a new avenue for parents and guardians to obtain funds to support their children. When someone does not meet a legal responsibility to pay child support, the child often suffers through lack of necessities or lost time with a parent who is forced to work more to compensate.

**OPPONENTS
SAY:**

This bill could create a risk of funds belonging to third parties being disbursed to those making claims for child support arrearages. Individuals may act as the custodian of a third party's property, such as that of a child or elderly parent. If such property, such as a savings or checking account, lay dormant long enough to be forfeited to the state, it could fall under the comptroller's unclaimed property listings. When a lien was levied against the custodian of this property for back-child support, there would be a risk that these funds, which actually belong to the third party, could be disbursed to the lienholder.

This bill also would open the door for other lienholders to attempt to make claims on unclaimed property with the comptroller.

NOTES:

The committee substitute differs from the original bill by revising the process by which a lienholder could make a claim for unclaimed property as repayment for outstanding child support.