



## AUDIT SERVICES U.S., LLC

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### LEGISLATIVE ALERT

House Bill 2650 is presently being considered by the Texas House of Representatives. If enacted, the bill will exempt membership initiation deposits from coverage under the Texas Unclaimed Property Law (the Texas Property Code).

By enacting this bill, Texans will lose a vital consumer protection and a potential windfall will be created for the affected businesses.

We urge you to protect the rights of your constituents and [vote against](#) this harmful legislation.



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[www.auditservicesus.us](http://www.auditservicesus.us)

### Commentary: House Bill 2650

**What is Unclaimed Property?** - Each year in the United States, billions of assets such as uncashed checks, lost shares of stock, forgotten bank accounts, customer credits, escrow accounts, paychecks and unused store credits go unclaimed. Companies are obligated to try and find missing owners, and in the absence of being able to locate them, must report these unclaimed funds to the states, including Texas, on an annual basis. The states' laws are designed to protect the rights of the lost owners or their heirs, and in the absence of the rightful owner, ensure that businesses are not unfairly enriched.

**What is House Bill 2650?** – House Bill 2650 seeks to exempt certain types of unclaimed property from the Texas Property Code. Specifically, HB 2650 will exempt “membership initiation deposits” which were paid by members of entertainment, recreation, sports, dining, or social facilities for purposes of joining those types of clubs.

**Why is House Bill 2650 Bad for Texans?** – HB 2650 would be a windfall to (in some cases highly leveraged) club ownership companies (specifically ClubCorp Holdings, Inc.), at the expense of the rightful owners of the deposits. ClubCorp may currently owe an estimated \$46 million to Texas residents, with potentially an additional \$90 million pending.

**What Will Happen to the Unclaimed Membership Deposits if HB 2650 is Enacted?** – In the case of any entity that is incorporated under the laws of another state (ClubCorp is incorporated in Delaware), the state of incorporation can then claim the funds. Specifically, for ClubCorp, the membership deposits can then be claimed by Delaware, where the likelihood of the unclaimed membership deposits being returned to the rightful owners is greatly diminished.

**What Happens to the Funds When They are Turned Over to the State?** – Texas will hold the funds in safekeeping in perpetuity on behalf of the rightful owners or heirs, and extensive location efforts will be undertaken. ClubCorp will be indemnified by the state for any claims made by the owners or heirs.

#### Important Facts:

- Membership deposits are not the property of the clubs – they belong to the owners or heirs.
- Failure to reserve the funds necessary to comply with the refund policies of its membership agreements should not be rewarded.
- An exemption only harms Texans and does not relieve a club incorporated in another state from a reporting obligation to that state.
- Membership deposits turned over to Texas will be held on behalf of the rightful owners/heirs in perpetuity until the owner/heir is located and/or claims their funds.
- Clubs will be indemnified by the state for any membership deposits that are reported to the state.

### About Audit Services

Founded in 1997, Audit Services U.S., LLC is the leading provider of comprehensive unclaimed property auditing services to the states. Our team is comprised of highly experienced subject matter experts, including the foremost thought leaders on general ledger auditing and analytics, unclaimed property law and litigation, and securities compliance. Most of our employees have over 20 years of unclaimed property experience and are made up of many former state administrators, audit supervisors, attorneys as well as private sector unclaimed property industry veterans.