

Introduced by Senator FullerFebruary 17, 2011

An act to amend Sections 1514, 1540, and 1565 of, and to add Section 1576.5 to, the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 495, as introduced, Fuller. Unclaimed property.

(1) Existing law provides that the contents of a safe deposit box, or the proceeds of their sale, held in this state by a business association escheat to the state if unclaimed by the owner for more than 3 years, as specified. Existing law requires the business association to provide notice to the apparent owner of the contents no less than 6 months and not less than 4 months before the contents become reportable as escheated property and to provide a specified notice.

This bill would lengthen the period for the escheat of the contents of a safe deposit box, as described above, to 5 years. The bill would additionally require a business association to provide notice to the apparent owner of the contents no less than 2½ years and not more than 3 years before the contents become reportable. The bill would require the notice also to include a prescribed form, by which the customer may declare an intention to maintain the safe deposit box, as specified, or otherwise take possession of the property, which, if properly returned to the business association, would be considered as a claim for the safe deposit box or other safekeeping repository and the contents shall not escheat. The bill would permit the business association to substitute an electronic process for the notice and permit the association to impose a service fee in this regard. The bill would also require the Controller to establish a program to identify holders of unclaimed property who

are not in compliance with specified unclaimed property report filing requirements.

(2) Existing law provides that any person who claims an interest in escheated property paid or delivered to the Controller may file a claim on the property or to the net proceeds from its sale. Existing law provides that no interest shall be paid on these claims. Existing law requires that all money received pursuant to the Unclaimed Property Law, including proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund, which is continuously appropriated. Existing law permits these moneys to be used for the payment of claims.

This bill would require that the Controller shall add interest at the lower of 2 specified rates to the amount of any claim paid to the owner for the period the property was on deposit in the Unclaimed Property Fund. By providing that moneys in a continuously appropriated fund be used for a new purpose, this bill would make an appropriation. The bill would also require a former holder of property who compensates the owner of the property that has escheated and been remitted to the state to also pay interest to the owner, for which the owner would apply to the Controller for reimbursement.

(3) Existing law requires that property delivered to the Controller that has no apparent commercial value be retained for a period of not less than 18 months from the date the property is delivered.

This bill would require that this property be retained for a period of not less than 7 years.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1514 of the Code of Civil Procedure is
2 amended to read:
3 1514. (a) The contents of, or the proceeds of sale of the
4 contents of, any safe deposit box or any other safekeeping
5 repository, held in this state by a business association, escheat to
6 this state if unclaimed by the owner for more than ~~three~~ *five* years
7 from the date on which the lease or rental period on the box or
8 other repository expired, or from the date of termination of any
9 agreement because of which the box or other repository was
10 furnished to the owner without cost, whichever last occurs.

1 (b) If a business association has in its records an address for an
2 apparent owner of the contents of, or the proceeds of sale of the
3 contents of, a safe deposit box or other safekeeping repository
4 described in subdivision (a), and the records of the business
5 association do not disclose the address to be inaccurate, the
6 business association shall make reasonable efforts to notify the
7 owner by mail, or, if the owner has consented to electronic notice,
8 electronically, that the owner's contents, or the proceeds of the
9 sale of the contents, will escheat to the state pursuant to this section.
10 The business association shall give notice ~~not less than six months~~
11 ~~and not more than 12 months before the time the contents, or the~~
12 ~~proceeds of the sale of the contents, become reportable to the~~
13 ~~Controller in accordance with this chapter.~~ *at each of the following*
14 *two times before the date the contents become reportable to the*
15 *Controller in accordance with this chapter:*

16 (1) *Not less than two and one-half years and not more than*
17 *three years before that date.*

18 (2) *Not less than six and not more than 12 months before that*
19 *date.*

20 (c) The face of the notice shall contain a heading at the top that
21 reads as follows: "THE STATE OF CALIFORNIA REQUIRES
22 US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY
23 MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT
24 CONTACT US," or substantially similar language. The notice
25 required by this subdivision shall specify the date that the property
26 will escheat and the effects of escheat, including the necessity for
27 filing a claim for the return of the property. The notice required
28 by this section shall, in boldface type or in a font a minimum of
29 two points larger than the rest of the notice, exclusive of the
30 heading, do all of the following:

31 (1) Identify the safe deposit box or other safekeeping repository
32 by number or identifier.

33 (2) State that the lease or rental period on the box or repository
34 has expired or the agreement has terminated.

35 (3) Indicate that the contents of, or the proceeds of sale of the
36 contents of, the safe deposit box or other safekeeping repository
37 will escheat to the state unless the owner requests the contents or
38 their proceeds.

39 (4) Specify that the California Unclaimed Property Law requires
40 business associations to transfer the contents of, or the proceeds

1 of sale of the contents of, a safe deposit box or other safekeeping
2 repository to the Controller if they remain unclaimed for more
3 than ~~three~~ five years.

4 (5) Advise the owner to make arrangements with the business
5 association to either obtain possession of the contents of, or the
6 proceeds of sale of the contents of, the safe deposit box or other
7 safekeeping repository, or enter into a new agreement with the
8 business association to establish a leasing or rental arrangement.
9 If an owner fails to establish such an arrangement prior to the end
10 of the period described in subdivision (a), such contents or proceeds
11 shall escheat to this state.

12 *(d) The notice shall also include a form, as prescribed by the*
13 *Controller, by which the customer may declare an intention to*
14 *maintain the safe deposit box or other safekeeping repository by*
15 *either renewing the lease, rental period, or agreement, or otherwise*
16 *taking possession of property from the business association. If that*
17 *form is filled out, signed by the customer, and returned to the*
18 *business association, it shall be considered as a claim for the safe*
19 *deposit box or other safekeeping repository and the contents shall*
20 *not escheat. In lieu of returning the form, the business association*
21 *may provide a telephone number or other electronic means to*
22 *enable the owner to contact that organization. The contact, as*
23 *evidenced by a memorandum or other record on file with the*
24 *business association, shall be considered as a claim for the safe*
25 *deposit box or other safekeeping repository and the contents shall*
26 *not escheat. The business association may impose a service charge*
27 *on the safe deposit box or other safekeeping repository for this*
28 *notice in an amount not to exceed the administrative cost of mailing*
29 *the notice and form, and in no case to exceed two dollars (\$2) per*
30 *notice required by this section.*

31 ~~(d)~~

32 (e) In addition to the notice required pursuant to subdivision
33 (b), the business association may give additional notice in
34 accordance with subdivision (c) at any time between the date on
35 which the lease or rental period for the safe deposit box or
36 repository expired, or from the date of the termination of any
37 agreement, through which the box or other repository was furnished
38 to the owner without cost, whichever is earlier, and the date the
39 business association transfers the contents of, or the proceeds of

1 sale of the contents of, the safe deposit box or other safekeeping
2 repository to the Controller.

3 ~~(e)~~

4 (f) The contents of, or the proceeds of sale of the contents of, a
5 safe deposit box or other safekeeping repository shall not escheat
6 to the state if, as of June 30 or the fiscal yearend next preceding
7 the date on which a report is required to be filed under Section
8 1530, the owner has owned, with a banking organization providing
9 the safe deposit box or other safekeeping repository, any demand,
10 savings, or matured time deposit, or account subject to a negotiable
11 order of withdrawal, which has not escheated under Section 1513
12 and is not reportable under subdivision (d) of Section 1530.

13 ~~(f)~~

14 (g) The contents of, or the proceeds of sale of the contents of,
15 a safe deposit box or other safekeeping repository shall not escheat
16 to the state if, as of June 30 or the fiscal yearend next preceding
17 the date on which a report is required to be filed under Section
18 1530, the owner has owned, with a financial organization providing
19 the safe deposit box or other safekeeping repository, any demand,
20 savings, or matured time deposit, or matured investment certificate,
21 or account subject to a negotiable order of withdrawal, or other
22 interest in a financial organization or any deposit made therewith,
23 and any interest or dividends thereon, which has not escheated
24 under Section 1513 and is not reportable under subdivision (d) of
25 Section 1530.

26 ~~(g)~~

27 (h) The contents of, or the proceeds of sale of the contents of,
28 a safe deposit box or other safekeeping repository shall not escheat
29 to the state if, as of June 30 or the fiscal yearend next preceding
30 the date on which a report is required to be filed under Section
31 1530, the owner has owned, with a banking or financial
32 organization providing the safe deposit box or other safekeeping
33 repository, any funds in an individual retirement account or under
34 a retirement plan for self-employed individuals or similar account
35 or plan pursuant to the internal revenue laws of the United States
36 or the income tax laws of this state, which has not escheated under
37 Section 1513 and is not reportable under subdivision (d) of Section
38 1530.

39 ~~(h)~~

1 (i) In the event the owner is in default under the safe deposit
2 box or other safekeeping repository agreement and the owner has
3 owned any demand, savings, or matured time deposit, account, or
4 plan described in subdivisions ~~(e), (f), or (g)~~ (f), (g), or (h), the
5 banking or financial organization may pay or deliver the contents
6 of, or the proceeds of sale of the contents of, the safe deposit box
7 or other safekeeping repository to the owner after deducting any
8 amount due and payable from those proceeds under that agreement.
9 Upon making that payment or delivery under these subdivisions,
10 the banking or financial organization shall be relieved of all liability
11 to the extent of the value of those contents or proceeds.

12 (i)

13 (j) For new accounts opened for a safe deposit box or other
14 safekeeping repository with a business association on and after
15 January 1, 2011, the business association shall provide a written
16 notice to the person leasing the safe deposit box or safekeeping
17 repository informing the person that his or her property, or the
18 proceeds of sale of such property, may be transferred to the
19 appropriate state upon running of the time period specified by state
20 law from the date the lease or rental period on the safe deposit box
21 or repository expired, or from the date of termination of any
22 agreement because of which the box or other repository was
23 furnished to the owner without cost, whichever is earlier.

24 (j)

25 (k) A business association may directly escheat the contents of
26 a safe deposit box or other safekeeping repository without
27 exercising its rights under Article 2 (commencing with Section
28 1660) of Chapter 13 of Division 1 of the Financial Code.

29 SEC. 2. Section 1540 of the Code of Civil Procedure is
30 amended to read:

31 1540. (a) Any person, excluding another state, who claims an
32 interest in property paid or delivered to the Controller under this
33 chapter may file a claim to the property or to the net proceeds from
34 its sale. The claim shall be on a form prescribed by the Controller
35 and shall be verified by the claimant.

36 (b) The Controller shall consider each claim within 180 days
37 after it is filed and may hold a hearing and receive evidence. The
38 Controller shall give written notice to the claimant if he or she
39 denies the claim in whole or in part. The notice may be given by
40 mailing it to the address, if any, stated in the claim as the address

1 to which notices are to be sent. If no address is stated in the claim,
2 the notice may be mailed to the address, if any, of the claimant as
3 stated in the claim. No notice of denial need be given if the claim
4 fails to state either an address to which notices are to be sent or an
5 address of the claimant.

6 ~~(e) No interest shall be payable on any claim paid under this~~
7 ~~chapter.~~

8 *(c) (1) The Controller shall add interest at the rate of 5 percent*
9 *per year or the bond equivalent rate of 13-week United States*
10 *Treasury bills, whichever is lower, to the amount of any claim paid*
11 *to the owner under this section for the period the property was on*
12 *deposit in the Unclaimed Property Fund. No interest shall be*
13 *payable for any period prior to January 1, 1977. Any interest*
14 *required to be paid by the state pursuant to this section shall be*
15 *computed as simple interest, not as compound interest.*

16 *(2) For purposes of this section, the bond equivalent rate of*
17 *13-week United States Treasury bills shall be defined in*
18 *accordance with the following criteria:*

19 *(A) The bond equivalent rate of 13-week United States Treasury*
20 *bills established at the first auction held during the month of*
21 *January shall apply for the following July 1 to December 31,*
22 *inclusive.*

23 *(B) The bond equivalent rate of 13-week United States Treasury*
24 *bills established at the first auction held during the month of July*
25 *shall apply for the following January 1 to June 30, inclusive.*

26 *(d) A former holder of property who compensates the owner of*
27 *the property for property that has escheated and been remitted to*
28 *the state shall also pay the owner for interest as provided in*
29 *subdivision (c). The former holder may apply for, and the*
30 *Controller shall pay upon a properly submitted request,*
31 *reimbursements of the principal and interest paid to the owner of*
32 *the escheated property.*

33 ~~(d)~~

34 *(e) For the purposes of this section, “owner” means the person*
35 *who had legal right to the property prior to its escheat, his or her*
36 *heirs, his or her legal representative, or a public administrator*
37 *acting pursuant to the authority granted in Sections 7660 and 7661*
38 *of the Probate Code.*

39 ~~(e)~~

1 (f) Following a public hearing, the Controller shall adopt
2 guidelines and forms that shall provide specific instructions to
3 assist owners in filing claims pursuant to this article.

4 SEC. 3. Section 1565 of the Code of Civil Procedure is
5 amended to read:

6 1565. Any property delivered to the ~~State~~ Controller pursuant
7 to this chapter that has no apparent commercial value shall be
8 retained by the Controller for a period of not less than ~~18 months~~
9 *seven years* from the date the property is delivered to the
10 Controller. If the Controller determines that any property delivered
11 to him or her pursuant to this chapter has no apparent commercial
12 value, he or she may at any time thereafter destroy or otherwise
13 dispose of the property, and in that event no action or proceeding
14 shall be brought or maintained against the state or any officer
15 thereof, or against the holder for, or on account of any action taken
16 by, the Controller pursuant to this chapter with respect to the
17 property.

18 SEC. 4. Section 1576.5 is added to the Code of Civil Procedure,
19 to read:

20 1576.5. The Controller shall establish a compliance program
21 to identify holders of unclaimed property who are not in
22 compliance with the unclaimed property report filing requirements
23 of Section 1530.