

AMENDED IN ASSEMBLY JULY 5, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 495

Introduced by Senator Fuller

February 17, 2011

An act to amend Sections 1513, 1513.5, ~~1514~~, 1516, 1518, 1520, 1532, and 1565 of, and to add Section 1576.5 to, the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

SB 495, as amended, 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 2 ½ 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

(1) Existing law specifies the circumstances under which property held or owing by a business association escheats to the state, including funds the business association holds in a retirement account or plan. Existing law also specifies the circumstances under which tangible and intangible personal property, and income and increments to that property, held in a fiduciary capacity escheat to the state if the owner fails to take certain actions within a period of 3 years after the property becomes payable or distributable to him or her.

This bill would specify additional circumstances under which certain funds in retirement accounts and plans become due and payable for purposes of escheat and would exempt tangible or intangible property from escheating to the state if the fiduciary and owner of the property have taken certain actions regarding the property.

(2) Existing law requires a person holding funds or other property escheated to the state to file a report with the Controller and to pay or deliver the escheated property to the Controller within a specified time, unless another person has established his or her right to any of the property specified in the report. Under existing law, the person holding the property is required to report that property to the Controller as well as any other property that does not appear to be subject to escheats.

This bill would instead require the person holding the property to report to the Controller only the property subject to escheat. 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. The bill would make additional technical changes.

~~(2)~~

(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: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:

3 1513. (a) Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:

6 (1) (A) Except as provided in paragraph (6), any demand,
7 savings, or matured time deposit, or account subject to a negotiable
8 order of withdrawal, made with a banking organization, together
9 with any interest or dividends thereon, excluding, from demand
10 deposits and accounts subject to a negotiable order of withdrawal
11 only, any reasonable service charges that may lawfully be withheld
12 and that do not (where made in this state) exceed those set forth
13 in schedules filed by the banking organization from time to time
14 with the Controller, when the owner, for more than three years,
15 has not done any of the following:

16 (i) Increased or decreased the amount of the deposit, cashed an
17 interest check, or presented the passbook or other similar evidence
18 of the deposit for the crediting of interest.

19 (ii) Corresponded electronically or in writing with the banking
20 organization concerning the deposit.

21 (iii) Otherwise indicated an interest in the deposit as evidenced
22 by a memorandum or other record on file with the banking
23 organization.

24 (B) A deposit or account shall not, however, escheat to the state
25 if, during the previous three years, the owner has owned another
26 deposit or account with the banking organization or the owner has
27 owned an individual retirement account or funds held by the
28 banking organization under a retirement plan for self-employed
29 individuals or a similar account or plan established pursuant to the
30 internal revenue laws of the United States or the laws of this state,
31 as described in paragraph (6), and, with respect to that deposit,
32 account, or plan, the owner has done any of the acts described in
33 ~~clauses (i), (ii)~~ *clause (i), (ii)*, or (iii) of subparagraph (A), and the
34 banking organization has communicated electronically or in writing
35 with the owner, at the address to which communications regarding
36 that deposit, account, or plan are regularly sent, with regard to the
37 deposit, ~~account, or plan~~ *or account* that would otherwise escheat
38 under subparagraph (A). For purposes of this subparagraph,

1 “communications” includes account statements or statements
2 required under the internal revenue laws of the United States.

3 (C) No banking organization may discontinue any interest or
4 dividends on any savings deposit because of the inactivity
5 contemplated by this section.

6 (2) (A) Except as provided in paragraph (6), any demand,
7 savings, or matured time deposit, or matured investment certificate,
8 or account subject to a negotiable order of withdrawal, or other
9 interest in a financial organization or any deposit made therewith,
10 and any interest or dividends thereon, excluding, from demand
11 deposits and accounts subject to a negotiable order of withdrawal
12 only, any reasonable service charges that may lawfully be withheld
13 and that do not (where made in this state) exceed those set forth
14 in schedules filed by the financial organization from time to time
15 with the Controller, when the owner, for more than three years,
16 has not done any of the following:

17 (i) Increased or decreased the amount of the funds or deposit,
18 cashed an interest check, or presented an appropriate record for
19 the crediting of interest or dividends.

20 (ii) Corresponded electronically or in writing with the financial
21 organization concerning the funds or deposit.

22 (iii) Otherwise indicated an interest in the funds or deposit as
23 evidenced by a memorandum or other record on file with the
24 financial organization.

25 (B) A deposit or account shall not, however, escheat to the state
26 if, during the previous three years, the owner has owned another
27 deposit or account with the financial organization or the owner
28 has owned an individual retirement account or funds held by the
29 financial organization under a retirement plan for self-employed
30 individuals or a similar account or plan established pursuant to the
31 internal revenue laws of the United States or the laws of this state,
32 as described in paragraph (6), and, with respect to that deposit,
33 account, or plan, the owner has done any of the acts described in
34 ~~clauses (i), (ii)~~ *clause (i), (ii)*, or (iii) of subparagraph (A), and the
35 financial organization has communicated electronically or in
36 writing with the owner, at the address to which communications
37 regarding that deposit, account, or plan are regularly sent, with
38 regard to the deposit, ~~account, or plan~~ *or account* that would
39 otherwise escheat under subparagraph (A). For purposes of this
40 subparagraph, “communications” includes account statements or

1 statements required under the internal revenue laws of the United
2 States.

3 (C) No financial organization may discontinue any interest or
4 dividends on any funds paid toward purchase of shares or other
5 interest, or on any deposit, because of the inactivity contemplated
6 by this section.

7 (3) Any sum payable on a traveler’s check issued by a business
8 association that has been outstanding for more than 15 years from
9 the date of its issuance, when the owner, for more than 15 years,
10 has not corresponded in writing with the business association
11 concerning it, or otherwise indicated an interest as evidenced by
12 a memorandum or other record on file with the association.

13 (4) Any sum payable on any other written instrument on which
14 a banking or financial organization is directly liable, including, by
15 way of illustration but not of limitation, any draft, cashier’s check,
16 teller’s check, or certified check, that has been outstanding for
17 more than three years from the date it was payable, or from the
18 date of its issuance if payable on demand, when the owner, for
19 more than three years, has not corresponded electronically or in
20 writing with the banking or financial organization concerning it,
21 or otherwise indicated an interest as evidenced by a memorandum
22 or other record on file with the banking or financial organization.

23 (5) Any sum payable on a money order issued by a business
24 association (including a banking or financial organization), that
25 has been outstanding for more than seven years from the date it
26 was payable, or from the date of its issuance if payable on demand,
27 excluding any reasonable service charges that may lawfully be
28 withheld and that do not, when made in this state, exceed those
29 set forth in schedules filed by the business association from time
30 to time with the Controller, when the owner, for more than seven
31 years, has not corresponded electronically or in writing with the
32 business association, banking, or financial organization concerning
33 it, or otherwise indicated an interest as evidenced by a
34 memorandum or other record on file with the business association.

35 For the purposes of this subdivision, “reasonable service charge”
36 means a service charge that meets all of the following requirements:

37 (A) It is uniformly applied to all of the issuer’s money orders.

38 (B) It is clearly disclosed to the purchaser at the time of purchase
39 and to the recipient of the money order.

1 (C) It does not begin to accrue until three years after the
2 purchase date, and it stops accruing after the value of the money
3 order escheats.

4 (D) It is permitted by contract between the issuer and the
5 purchaser.

6 (E) It does not exceed 25 cents (\$0.25) per month or the
7 aggregate amount of twenty-one dollars (\$21).

8 (6) (A) Any funds held by a business association in an
9 individual retirement account or under a retirement plan for
10 self-employed individuals or similar account or plan established
11 pursuant to the internal revenue laws of the United States or of
12 this state, when the owner, for more than three years after the funds
13 become payable or distributable, has not done any of the following:

14 (i) Increased or decreased the principal.

15 (ii) Accepted payment of principal or income.

16 (iii) Corresponded electronically or in writing concerning the
17 property or otherwise indicated an interest.

18 (B) Funds held by a business association in an individual
19 retirement account or under a retirement plan for self-employed
20 individuals or a similar account or plan created pursuant to the
21 internal revenue laws of the United States or the laws of this state
22 shall not escheat to the state if, during the previous three years,
23 the owner has owned another such ~~account or plan~~, *plan, or any*
24 *other deposit or account* with the business association and, with
25 respect to that ~~account~~ *deposit, account, or plan*, the owner has
26 done any of the acts described in clause (i), (ii), or (iii) of
27 subparagraph (A), and the business association has communicated
28 electronically or in writing with the owner, at the address to which
29 communications regarding that ~~account~~ *deposit, account, or plan*
30 are regularly sent, with regard to the account or plan that would
31 otherwise escheat under subparagraph (A). For purposes of this
32 subparagraph, “communications” includes account statements or
33 statements required under the internal revenue laws of the United
34 States.

35 (C) These funds are not payable or distributable within the
36 meaning of this subdivision unless either of the following is true:

37 (i) Under the terms of the account or plan, distribution of all or
38 a part of the funds would then be mandatory.

1 (ii) For an account or plan not subject to mandatory distribution
2 requirement under the internal revenue laws of the United States
3 or the laws of this state, the owner has attained 70½ years of age.

4 (7) Any wages or salaries that have remained unclaimed by the
5 owner for more than one year after the wages or salaries become
6 payable.

7 (b) For purposes of this section “service charges” means service
8 charges imposed because of the inactivity contemplated by this
9 section.

10 SEC. 2. Section 1513.5 of the Code of Civil Procedure is
11 amended to read:

12 1513.5. (a) Except as provided in subdivision (c), if the holder
13 has in its records an address for the apparent owner, which the
14 holder’s records do not disclose to be inaccurate, every banking
15 or financial organization shall make reasonable efforts to notify
16 any owner by mail or, if the owner has consented to electronic
17 notice, electronically, that the owner’s deposit, account, shares, or
18 other interest in the banking or financial organization will escheat
19 to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A)
20 of ~~paragraphs~~ *paragraph* (1), (2), or (6) of subdivision (a) of
21 Section 1513. The holder shall give notice either:

22 (1) Not less than two years nor more than two and one-half
23 years after the date of last activity by, or communication with, the
24 owner with respect to the account, deposit, shares, or other interest,
25 as shown on the record of the banking or financial organization.

26 (2) Not less than 6 nor more than 12 months before the time the
27 account, deposit, shares, or other interest becomes reportable to
28 the Controller in accordance with this chapter.

29 (b) The notice required by this section shall specify the time
30 that the deposit, account, shares, or other interest will escheat and
31 the effects of escheat, including the necessity for filing a claim for
32 the return of the deposit, account, shares, or other interest. The
33 face of the notice shall contain a heading at the top that reads as
34 follows: “THE STATE OF CALIFORNIA REQUIRES US TO
35 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
36 BE TRANSFERRED TO THE STATE IF YOU DO NOT
37 CONTACT US,” or substantially similar language. The notice
38 required by this section shall, in boldface type or in a font a
39 minimum of two points larger than the rest of the notice, exclusive
40 of the heading, (1) specify that since the date of last activity, or

1 for the last two years, there has been no owner activity on the
2 deposit, account, shares, or other interest; (2) identify the deposit,
3 account, shares, or other interest by number or identifier, which
4 need not exceed four digits; (3) indicate that the deposit, account,
5 shares, or other interest is in danger of escheating to the state; and
6 (4) specify that the ~~California~~ Unclaimed Property Law requires
7 banking and financial organizations to transfer funds of a deposit,
8 account, shares, or other interest if it has been inactive for three
9 years. It shall also include a form, as prescribed by the Controller,
10 by which the owner may declare an intention to maintain the
11 deposit, account, shares, or other interest. If that form is filled out,
12 signed by the owner, and returned to the banking or financial
13 organization, it shall satisfy the requirement of clause (iii) of
14 subparagraph (A) of paragraph (1), clause (iii) of subparagraph
15 (A) of paragraph (2), or clause (iii) of subparagraph (A) of
16 paragraph (6) of subdivision (a) of Section 1513. In lieu of
17 returning the form, the banking or financial organization may
18 provide a telephone number or other electronic means to enable
19 the owner to contact that organization. The contact, as evidenced
20 by a memorandum or other record on file with the banking or
21 financial organization, shall satisfy the requirement of clause (iii)
22 of subparagraph (A) of paragraph (1), clause (iii) of subparagraph
23 (A) of paragraph (2), or clause (iii) of subparagraph (A) of
24 paragraph (6) of subdivision (a) of Section 1513. The banking or
25 financial organization may impose a service charge on the deposit,
26 account, shares, or other interest for this notice in an amount not
27 to exceed the administrative cost of mailing or electronically
28 sending the notice and form and in no case to exceed two dollars
29 (\$2).

30 (c) Notice as provided by subdivisions (a) and (b) shall not be
31 required for deposits, accounts, shares, or other interests of less
32 than fifty dollars (\$50), and no service charge may be made for
33 notice on these items.

34 (d) In addition to the notices required pursuant to subdivision
35 (a), the holder may give additional notice as described in
36 subdivision (b) at any time between the date of last activity by, or
37 communication with, the owner and the date the holder transfers
38 the deposit, account, shares, or other interest to the Controller.

39 (e) At the time a new account is opened with a banking or
40 financial organization, the organization shall provide a written

1 notice to the person opening the account informing the person that
2 his or her property may be transferred to the appropriate state if
3 no activity occurs in the account within the time period specified
4 by state law. If the person opening the account has consented to
5 electronic notice, that notice may be provided electronically. This
6 subdivision shall become effective on January 1, 2011.

7 ~~SEC. 3. Section 1514 of the Code of Civil Procedure is~~
8 ~~amended to read:~~

9 ~~1514. (a) The contents of, or the proceeds of sale of the~~
10 ~~contents of, any safe deposit box or any other safekeeping~~
11 ~~repository, held in this state by a business association, escheat to~~
12 ~~this state if unclaimed by the owner for more than five years from~~
13 ~~the date on which the lease or rental period on the box or other~~
14 ~~repository expired, or from the date of termination of any~~
15 ~~agreement because of which the box or other repository was~~
16 ~~furnished to the owner without cost, whichever last occurs.~~

17 ~~(b) If a business association has in its records an address for an~~
18 ~~apparent owner of the contents of, or the proceeds of sale of the~~
19 ~~contents of, a safe deposit box or other safekeeping repository~~
20 ~~described in subdivision (a), and the records of the business~~
21 ~~association do not disclose the address to be inaccurate, the~~
22 ~~business association shall make reasonable efforts to notify the~~
23 ~~owner by mail, or, if the owner has consented to electronic notice,~~
24 ~~electronically, that the owner's contents, or the proceeds of the~~
25 ~~sale of the contents, will escheat to the state pursuant to this section.~~
26 ~~The business association shall give notice at each of the following~~
27 ~~two times before the date the contents become reportable to the~~
28 ~~Controller in accordance with this chapter:~~

29 ~~(1) Not less than two and one-half years and not more than three~~
30 ~~years before that date.~~

31 ~~(2) Not less than 6 months and not more than 12 months before~~
32 ~~that date.~~

33 ~~(c) The face of the notice shall contain a heading at the top that~~
34 ~~reads as follows: "THE STATE OF CALIFORNIA REQUIRES~~
35 ~~US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY~~
36 ~~MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT~~
37 ~~CONTACT US," or substantially similar language. The notice~~
38 ~~required by this subdivision shall specify the date that the property~~
39 ~~will escheat and the effects of escheat, including the necessity for~~
40 ~~filing a claim for the return of the property. The notice required~~

1 by this section shall, in boldface type or in a font a minimum of
2 two points larger than the rest of the notice, exclusive of the
3 heading, do all of the following:

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

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

8 (3) Indicate that the contents of, or the proceeds of sale of the
9 contents of, the safe deposit box or other safekeeping repository
10 will escheat to the state unless the owner requests the contents or
11 their proceeds.

12 (4) Specify that the California Unclaimed Property Law requires
13 business associations to transfer the contents of, or the proceeds
14 of sale of the contents of, a safe deposit box or other safekeeping
15 repository to the Controller if they remain unclaimed for more
16 than five years.

17 (5) Advise the owner to make arrangements with the business
18 association to either obtain possession of the contents of, or the
19 proceeds of sale of the contents of, the safe deposit box or other
20 safekeeping repository, or enter into a new agreement with the
21 business association to establish a leasing or rental arrangement.
22 If an owner fails to establish such an arrangement prior to the end
23 of the period described in subdivision (a), such contents or proceeds
24 shall escheat to this state.

25 (d) The notice shall also include a form, as prescribed by the
26 Controller, by which the customer may declare an intention to
27 maintain the safe deposit box or other safekeeping repository by
28 either renewing the lease, rental period, or agreement, or otherwise
29 taking possession of property from the business association. If that
30 form is filled out, signed by the customer, and returned to the
31 business association, it shall be considered as a claim for the safe
32 deposit box or other safekeeping repository and the contents shall
33 not escheat. In lieu of returning the form, the business association
34 may provide a telephone number or other electronic means to
35 enable the owner to contact that organization. The contact, as
36 evidenced by a memorandum or other record on file with the
37 business association, shall be considered as a claim for the safe
38 deposit box or other safekeeping repository and the contents shall
39 not escheat. The business association may impose a service charge
40 on the safe deposit box or other safekeeping repository for this

1 notice in an amount not to exceed the administrative cost of mailing
2 the notice and form, and in no case to exceed two dollars (\$2) per
3 notice required by this section.

4 (e) ~~In addition to the notice required pursuant to subdivision
5 (b), the business association may give additional notice in
6 accordance with subdivision (c) at any time between the date on
7 which the lease or rental period for the safe deposit box or
8 repository expired, or from the date of the termination of any
9 agreement, through which the box or other repository was furnished
10 to the owner without cost, whichever is earlier, and the date the
11 business association transfers the contents of, or the proceeds of
12 sale of the contents of, the safe deposit box or other safekeeping
13 repository to the Controller.~~

14 (f) ~~The contents of, or the proceeds of sale of the contents of, a
15 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 banking organization providing
19 the safe deposit box or other safekeeping repository, any demand,
20 savings, or matured time deposit, or account subject to a negotiable
21 order of withdrawal, which has not escheated under Section 1513
22 and is not reportable under subdivision (d) of Section 1530.~~

23 (g) ~~The contents of, or the proceeds of sale of the contents of,
24 a safe deposit box or other safekeeping repository shall not escheat
25 to the state if, as of June 30 or the fiscal yearend next preceding
26 the date on which a report is required to be filed under Section
27 1530, the owner has owned, with a financial organization providing
28 the safe deposit box or other safekeeping repository, any demand,
29 savings, or matured time deposit, or matured investment certificate,
30 or account subject to a negotiable order of withdrawal, or other
31 interest in a financial organization or any deposit made therewith,
32 and any interest or dividends thereon, which has not escheated
33 under Section 1513 and is not reportable under subdivision (d) of
34 Section 1530.~~

35 (h) ~~The contents of, or the proceeds of sale of the contents of,
36 a safe deposit box or other safekeeping repository shall not escheat
37 to the state if, as of June 30 or the fiscal yearend next preceding
38 the date on which a report is required to be filed under Section
39 1530, the owner has owned, with a banking or financial
40 organization providing the safe deposit box or other safekeeping~~

1 repository, any funds in an individual retirement account or under
2 a retirement plan for self-employed individuals or similar account
3 or plan pursuant to the internal revenue laws of the United States
4 or the income tax laws of this state, which has not escheated under
5 Section 1513 and is not reportable under subdivision (d) of Section
6 1530.

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

18 (j) For new accounts opened for a safe deposit box or other
19 safekeeping repository with a business association on and after
20 January 1, 2011, the business association shall provide a written
21 notice to the person leasing the safe deposit box or safekeeping
22 repository informing the person that his or her property, or the
23 proceeds of sale of such property, may be transferred to the
24 appropriate state upon running of the time period specified by state
25 law from the date the lease or rental period on the safe deposit box
26 or repository expired, or from the date of termination of any
27 agreement because of which the box or other repository was
28 furnished to the owner without cost, whichever is earlier. If the
29 person opening the account consented to electronic notice, that
30 notice may be provided electronically. If the electronic notice is
31 returned as undeliverable, notice shall be provided in writing in
32 person or by mail.

33 (k) A business association may directly escheat the contents of
34 a safe deposit box or other safekeeping repository without
35 exercising its rights under Article 2 (commencing with Section
36 1660) of Chapter 13 of Division 1 of the Financial Code.

37 ~~SEC. 4.~~

38 *SEC. 3.* Section 1516 of the Code of Civil Procedure is
39 amended to read:

1 1516. (a) Subject to Section 1510, any dividend, profit,
2 distribution, interest, payment on principal, or other sum held or
3 owing by a business association for or to its shareholder, certificate
4 holder, member, bondholder, or other security holder, or a
5 participating patron of a cooperative, who has not claimed it, or
6 corresponded in writing with the business association concerning
7 it, within three years after the date prescribed for payment or
8 delivery, escheats to this state.

9 (b) Subject to Section 1510, any intangible interest in a business
10 association, as evidenced by the stock records or membership
11 records of the association, escheats to this state if (1) the interest
12 in the association is owned by a person who for more than three
13 years has neither claimed a dividend or other sum referred to in
14 subdivision (a) nor corresponded in writing with the association
15 or otherwise indicated an interest as evidenced by a memorandum
16 or other record on file with the association, and (2) the association
17 does not know the location of the owner at the end of the three-year
18 period. With respect to the interest, the business association shall
19 be deemed the holder.

20 (c) Subject to Section 1510, any dividends or other distributions
21 held for or owing to a person at the time the stock or other security
22 to which they attach escheats to this state also escheat to this state
23 as of the same time.

24 (d) If the business association has in its records an address for
25 the apparent owner, which the business association's records do
26 not disclose to be inaccurate, with respect to any interest that may
27 escheat pursuant to subdivision (b), the business association shall
28 make reasonable efforts to notify the owner by mail or, if the owner
29 has consented to electronic notice, electronically, that the owner's
30 interest in the business association will escheat to the state. The
31 notice shall be given not less than 6 nor more than 12 months
32 before the time the interest in the business association becomes
33 reportable to the Controller in accordance with this chapter. The
34 face of the notice shall contain a heading at the top that reads as
35 follows: "THE STATE OF CALIFORNIA REQUIRES US TO
36 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
37 BE TRANSFERRED TO THE STATE IF YOU DO NOT
38 CONTACT US," or substantially similar language. The notice
39 required by this subdivision shall specify the time that the interest
40 will escheat and the effects of escheat, including the necessity for

1 filing a claim for the return of the interest. The notice required by
2 this section shall, in boldface type or in a font a minimum of two
3 points larger than the rest of the notice, exclusive of the heading,
4 (1) specify that since the date of last activity, or for the last two
5 years, there has been no owner activity on the deposit, account,
6 shares, or other interest; (2) identify the deposit, account, shares,
7 or other interest by number or identifier, which need not exceed
8 four digits; (3) indicate that the deposit, account, shares, or other
9 interest is in danger of escheating to the state; and (4) specify that
10 the—California Unclaimed Property Law requires business
11 associations to transfer funds of a deposit, account, shares, or other
12 interest if it has been inactive for three years. It shall also include
13 a form, as prescribed by the Controller, by which the owner may
14 confirm the owner’s current address. If that form is filled out,
15 signed by the owner, and returned to the holder, it shall be deemed
16 that the business association knows the location of the owner. In
17 lieu of returning the form, the business association may provide a
18 telephone number or other electronic means to enable the owner
19 to contact the association. With that contact, as evidenced by a
20 memorandum or other record on file with the business association,
21 the business association shall be deemed to know the location of
22 the owner. The business association may impose a service charge
23 on the deposit, account, shares, or other interest for this notice and
24 form in an amount not to exceed the administrative cost of mailing
25 or electronically sending the notice and form, and in no case to
26 exceed two dollars (\$2).

27 (e) In addition to the notice required pursuant to subdivision
28 (d), the holder may give additional notice as described in
29 subdivision (d) at any time between the date of last activity by, or
30 communication with, the owner and the date the holder transfers
31 the deposit, shares, or other interest to the Controller.

32 ~~SEC. 5.~~

33 *SEC. 4.* Section 1518 of the Code of Civil Procedure is
34 amended to read:

35 1518. (a) (1) All tangible personal property located in this
36 state and, subject to Section 1510, all intangible personal property,
37 *including intangible personal property maintained in a deposit or*
38 *account*, and the income or increment on such tangible or intangible
39 property, held in a fiduciary capacity for the benefit of another
40 person escheats to this state if *for more than three years* after it

1 becomes payable or distributable, the owner has not, ~~within a~~
2 ~~period of three years, increased~~ *done any of the following:*

- 3 (A) ~~Increased or decreased the principal, accepted~~ *principal.*
- 4 (B) ~~Accepted payment of principal or income, corresponded~~
5 ~~income.~~
- 6 (C) ~~Corresponded in writing concerning the property, or~~
7 ~~otherwise property.~~
- 8 (D) ~~Otherwise indicated an interest in the property as evidenced~~
9 ~~by a memorandum or other record on file with the fiduciary.~~

10 (2) *Notwithstanding paragraph (1), tangible or intangible*
11 *property, and the income or increment on the tangible or intangible*
12 *property, held in a fiduciary capacity for another person shall not*
13 *escheat to the state if the requirements of subparagraphs (A) and*
14 *(B) are satisfied.*

15 (A) *During the previous three years, the fiduciary took one of*
16 *the following actions:*

- 17 (i) *Held another deposit or account for the benefit of the owner.*
- 18 (ii) *Maintained a deposit or account on behalf of the owner in*
19 *an individual retirement account.*
- 20 (iii) *Held funds or other property under a retirement plan for*
21 *a self-employed individual, or similar account or plan, established*
22 *pursuant to the internal revenue laws of the United States or the*
23 *laws of this state.*

24 (B) *During the previous three years, the owner has done any*
25 *of the acts described in subparagraph (A), (B), (C), or (D) of*
26 *paragraph (1) with respect to the deposit, account, or plan*
27 *described in subparagraph (A), and the fiduciary has*
28 *communicated electronically or in writing with the owner at the*
29 *address to which communications regarding that deposit, account,*
30 *or plan are regularly sent. "Communications," for purposes of*
31 *this subparagraph, includes account statements or statements*
32 *required under the internal revenue laws of the United States.*

33 (b) Funds in an individual retirement account or a retirement
34 plan for self-employed individuals or similar account or plan
35 established pursuant to the internal revenue laws of the United
36 States or of this state are not payable or distributable within the
37 meaning of subdivision (a) unless either of the following is true:

- 38 (1) Under the terms of the account or plan, distribution of all
39 or part of the funds would then be mandatory.

1 (2) For an account or plan not subject to mandatory distribution
2 requirement under the internal revenue laws of the United States
3 or the laws of this state, the owner has attained 70½ years of age.

4 (c) For the purpose of this section, when a person holds property
5 as an agent for a business association, he or she is deemed to hold
6 the property in a fiduciary capacity for the business association
7 alone, unless the agreement between him or her and the business
8 association clearly provides the contrary. For the purposes of this
9 chapter, if a person holds property in a fiduciary capacity for a
10 business association alone, he or she is the holder of the property
11 only insofar as the interest of the business association in the
12 property is concerned and the association is deemed to be the
13 holder of the property insofar as the interest of any other person
14 in the property is concerned.

15 ~~SEC. 6.~~

16 *SEC. 5.* Section 1520 of the Code of Civil Procedure is
17 amended to read:

18 1520. (a) All tangible personal property located in this state
19 and, subject to Section 1510, all intangible personal property,
20 except property of the classes mentioned in Sections 1511, 1513,
21 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
22 any income or increment thereon and deducting any lawful charges,
23 that is held or owing in the ordinary course of the holder's business
24 and has remained unclaimed by the owner for more than three
25 years after it became payable or distributable escheats to this state.

26 (b) Except as provided in subdivision (a) of Section 1513.5,
27 subdivision (b) of Section 1514, and subdivision (d) of Section
28 1516, if the holder has in its records an address for the apparent
29 owner of property valued at fifty dollars (\$50) or more, which the
30 holder's records do not disclose to be inaccurate, the holder shall
31 make reasonable efforts to notify the owner by mail or, if the owner
32 has consented to electronic notice, electronically, that the owner's
33 property will escheat to the state pursuant to this chapter. The
34 notice shall be mailed not less than 6 nor more than 12 months
35 before the time when the owner's property held by the business
36 becomes reportable to the Controller in accordance with this
37 chapter. The face of the notice shall contain a heading at the top
38 that reads as follows: "THE STATE OF CALIFORNIA
39 REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED
40 PROPERTY MAY BE TRANSFERRED TO THE STATE IF

1 YOU DO NOT CONTACT US,” or substantially similar language.
2 The notice required by this subdivision shall specify the time when
3 the property will escheat and the effects of escheat, including the
4 need to file a claim in order for the owner’s property to be returned
5 to the owner. The notice required by this section shall, in boldface
6 type or in a font a minimum of two points larger than the rest of
7 the notice, exclusive of the heading, (1) specify that since the date
8 of last activity, or for the last two years, there has been no owner
9 activity on the deposit, account, shares, or other interest; (2)
10 identify the deposit, account, shares, or other interest by number
11 or identifier, which need not exceed four digits; (3) indicate that
12 the deposit, account, shares, or other interest is in danger of
13 escheating to the state; and (4) specify that the ~~California~~
14 Unclaimed Property Law requires holders to transfer funds of a
15 deposit, account, shares, or other interest if it has been inactive for
16 three years. It shall also include a form, as prescribed by the
17 Controller, by which the owner may confirm the owner’s current
18 address. If that form is filled out, signed by the owner, and returned
19 to the holder, it shall be deemed that the account, or other device
20 in which the owner’s property is being held, remains currently
21 active and recommences the escheat period. In lieu of returning
22 the form, the holder may provide a telephone number or other
23 electronic means to enable the owner to contact the holder. With
24 that contact, as evidenced by a memorandum or other record on
25 file with the holder, the account or other device in which the
26 owner’s property is being held shall be deemed to remain currently
27 active and shall recommence the escheat period. The holder may
28 impose a service charge on the deposit, account, shares, or other
29 interest for this notice in an amount not to exceed the administrative
30 cost of mailing or electronically sending the notice and form, and
31 in no case to exceed two dollars (\$2).

32 (c) In addition to the notice required pursuant to subdivision
33 (b), the holder may give additional notice as described in
34 subdivision (b) at any time between the date of last activity by, or
35 communication with, the owner and the date the holder transfers
36 the property to the Controller.

37 (d) For purposes of this section, “lawful charges” means charges
38 which are specifically authorized by statute, other than the
39 Unclaimed Property Law, or by a valid, enforceable contract.

1 *SEC. 6. Section 1532 of the Code of Civil Procedure is*
2 *amended to read:*

3 1532. (a) Every person filing a report as provided by Section
4 1530 shall, no sooner than seven months and no later than seven
5 months and 15 days after the final date for filing the report, pay
6 or deliver to the Controller all escheated property specified in the
7 report. Any payment of unclaimed cash in an amount of at least
8 twenty thousand dollars (\$20,000) shall be made by electronic
9 funds transfer pursuant to regulations adopted by the Controller.
10 The Controller may postpone the date for payment or delivery of
11 the property, and the date for any report required by subdivision
12 (b), upon his or her own motion or upon written request by any
13 person required to pay or deliver the property or file a report as
14 required by this section.

15 (b) If a person establishes his or her right to receive any property
16 specified in the report to the satisfaction of the holder before that
17 property has been delivered to the Controller, or it appears that,
18 for any other reason, the property may not be subject to escheat
19 under this chapter, the holder shall not pay or deliver the property
20 to the Controller but shall instead file a report with the Controller,
21 on a form and in a format prescribed or approved by the Controller,
22 containing information pertaining to the property ~~not~~ subject to
23 escheat.

24 (c) Any property not paid or delivered pursuant to subdivision
25 (b) that is later determined by the holder to be subject to escheat
26 under this chapter shall not be subject to the interest provision of
27 Section 1577.

28 (d) The holder of any interest under subdivision (b) of Section
29 1516 shall deliver a duplicate certificate to the Controller or shall
30 register the securities in uncertificated form in the name of the
31 Controller. Upon delivering a duplicate certificate or providing
32 evidence of registration of the securities in uncertificated form to
33 the Controller, the holder, any transfer agent, registrar, or other
34 person acting for or on behalf of the holder in executing or
35 delivering the duplicate certificate or registering the uncertificated
36 securities, shall be relieved from all liability of every kind to any
37 person including, but not limited to, any person acquiring the
38 original certificate or the duplicate of the certificate issued to the
39 Controller for any losses or damages resulting to that person by
40 the issuance and delivery to the Controller of the duplicate

1 certificate or the registration of the uncertificated securities to the
2 Controller.

3 (e) Payment of any intangible property to the Controller shall
4 be made at the office of the Controller in Sacramento or at another
5 location as the Controller by regulation may designate. Except as
6 otherwise agreed by the Controller and the holder, tangible personal
7 property shall be delivered to the Controller at the place where it
8 is held.

9 (f) Payment is deemed complete on the date the electronic funds
10 transfer is initiated if the settlement to the state's demand account
11 occurs on or before the banking day following the date the transfer
12 is initiated. If the settlement to the state's demand account does
13 not occur on or before the banking day following the date the
14 transfer is initiated, payment is deemed to occur on the date
15 settlement occurs.

16 (g) Any person required to pay cash by electronic funds transfer
17 who makes the payment by means other than an authorized
18 electronic funds transfer shall be liable for a civil penalty of 2
19 percent of the amount of the payment that is due pursuant to this
20 section, in addition to any other penalty provided by law. Penalties
21 are due at the time of payment. If the Controller finds that a
22 holder's failure to make payment by an appropriate electronic
23 funds transfer in accordance with the Controller's procedures is
24 due to reasonable cause and circumstances beyond the holder's
25 control, and occurred notwithstanding the exercise of ordinary
26 care and in the absence of willful neglect, that holder shall be
27 relieved of the penalties.

28 (h) An electronic funds transfer shall be accomplished by an
29 automated clearinghouse debit, an automated clearinghouse credit,
30 a Federal Reserve Wire Transfer (Fedwire), or by an international
31 funds transfer. Banking costs incurred for the automated
32 clearinghouse debit transaction by the holder shall be paid by the
33 state. Banking costs incurred by the state for the automated
34 clearinghouse credit transaction may be paid by the holder
35 originating the credit. Banking costs incurred for the Fedwire
36 transaction charged to the holder and the state shall be paid by the
37 person originating the transaction. Banking costs charged to the
38 holder and to the state for an international funds transfer may be
39 charged to the holder.

40 (i) For purposes of this section:

1 (1) “Electronic funds transfer” means any transfer of funds,
2 other than a transaction originated by check, draft, or similar paper
3 instrument, that is initiated through an electronic terminal,
4 telephonic instrument, modem, computer, or magnetic tape, so as
5 to order, instruct, or authorize a financial institution to credit or
6 debit an account.

7 (2) “Automated clearinghouse” means any federal reserve bank,
8 or an organization established by agreement with the National
9 Automated Clearing House Association or any similar organization,
10 that operates as a clearinghouse for transmitting or receiving entries
11 between banks or bank accounts and that authorizes an electronic
12 transfer of funds between those banks or bank accounts.

13 (3) “Automated clearinghouse debit” means a transaction in
14 which the state, through its designated depository bank, originates
15 an automated clearinghouse transaction debiting the holder’s bank
16 account and crediting the state’s bank account for the amount of
17 payment.

18 (4) “Automated clearinghouse credit” means an automated
19 clearinghouse transaction in which the holder, through its own
20 bank, originates an entry crediting the state’s bank account and
21 debiting the holder’s bank account.

22 (5) “Fedwire” means any transaction originated by the holder
23 and utilizing the national electronic payment system to transfer
24 funds through federal reserve banks, pursuant to which the holder
25 debits its own bank account and credits the state’s bank account.

26 (6) “International funds transfer” means any transaction
27 originated by the holder and utilizing the international electronic
28 payment system to transfer funds, pursuant to which the holder
29 debits its own bank account, and credits the funds to a United
30 States bank that credits the Unclaimed Property Fund.

31 SEC. 7. Section 1565 of the Code of Civil Procedure is
32 amended to read:

33 1565. Any property delivered to the Controller pursuant to this
34 chapter that has no apparent commercial value shall be retained
35 by the Controller for a period of not less than seven years from
36 the date the property is delivered to the Controller. If the Controller
37 determines that any property delivered to him or her pursuant to
38 this chapter has no apparent commercial value, he or she may at
39 any time thereafter destroy or otherwise dispose of the property,
40 and in that event no action or proceeding shall be brought or

1 maintained against the state or any officer thereof, or against the
2 holder for, or on account of any action taken by, the Controller
3 pursuant to this chapter with respect to the property.

4 SEC. 8. Section 1576.5 is added to the Code of Civil Procedure,
5 to read:

6 1576.5. The Controller shall establish a compliance program
7 to identify holders of unclaimed property who are not in
8 compliance with the unclaimed property report filing requirements
9 of Section 1530.

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