

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 212

Introduced by Assembly Member Lowenthal

January 31, 2013

An act to amend Sections 1513.5 and 1530 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 212, as amended, Lowenthal. Unclaimed property.

The Unclaimed Property Law (UPL) specifies the circumstances under which unclaimed personal property held by a banking or financial institution, business association, or other holder of personal property escheats to the state. The UPL requires a banking or financial organization, if it has in its records an address for the apparent owner, which the records do not disclose to be inaccurate, to make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state, as specified. The UPL authorizes a banking or financial organization to impose a service charge for the notice on the deposit, account, shares, or other interest in an amount up to \$2 but not exceeding the administrative cost of mailing or electronically sending the notice, but prohibits a banking or financial institution from imposing a service charge for notice on items of less than \$50. The UPL requires every person holding funds or other property that escheated to the state to submit a report to the Controller that includes, among other items, the name and last known address of each person appearing to be the

owner of any property, except traveler’s checks and money orders, worth at least \$50 that escheated to the state and, for items worth less than \$50, the nature and identifying number, if any, or description of any intangible property reported in aggregate. The UPL requires that the report be filed before November 1 of each year, except with regard to the report of life insurance corporations and of all insurance corporation demutualization proceeds subject to a specified statute, in which case the UPL requires that the report be filed before May 1 of each year.

This bill would, beginning July 1, 2014, require a person holding escheated property to include in his or her report to the Controller the name and last known address of the apparent owner of any escheated property, except travelers checks and money orders, worth at least \$25. The bill would allow the holder to report information regarding escheated items worth less than ~~\$50~~ \$25 in aggregate ~~if the name of the owner is not known and there is no last known address in the records of the holder.~~ The bill would authorize a banking or financial institution to impose a service charge for notice if the deposit, account, shares, or other interest has a value greater than \$2.

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 1513.5 of the Code of Civil Procedure
 2 is amended to read:
 3 1513.5. (a) Except as provided in subdivision (c), if the holder
 4 has in its records an address for the apparent owner, which the
 5 holder’s records do not disclose to be inaccurate, every banking
 6 or financial organization shall make reasonable efforts to notify
 7 any owner by mail or, if the owner has consented to electronic
 8 notice, electronically, that the owner’s deposit, account, shares, or
 9 other interest in the banking or financial organization will escheat
 10 to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A)
 11 of paragraph (1), (2), or (6) of subdivision (a) of Section 1513.
 12 The holder shall give notice either:
 13 (1) Not less than two years nor more than two and one-half
 14 years after the date of last activity by, or communication with, the
 15 owner with respect to the account, deposit, shares, or other interest,
 16 as shown on the record of the banking or financial organization.

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

4 (b) The notice required by this section shall specify the time
5 that the deposit, account, shares, or other interest will escheat and
6 the effects of escheat, including the necessity for filing a claim for
7 the return of the deposit, account, shares, or other interest. The
8 face of the notice shall contain a heading at the top that reads as
9 follows: “THE STATE OF CALIFORNIA REQUIRES US TO
10 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
11 BE TRANSFERRED TO THE STATE IF YOU DO NOT
12 CONTACT US,” or substantially similar language. The notice
13 required by this section shall, in boldface type or in a font a
14 minimum of two points larger than the rest of the notice, exclusive
15 of the heading, (1) specify that since the date of last activity, or
16 for the last two years, there has been no owner activity on the
17 deposit, account, shares, or other interest; (2) identify the deposit,
18 account, shares, or other interest by number or identifier, which
19 need not exceed four digits; (3) indicate that the deposit, account,
20 shares, or other interest is in danger of escheating to the state; and
21 (4) specify that the Unclaimed Property Law requires banking and
22 financial organizations to transfer funds of a deposit, account,
23 shares, or other interest if it has been inactive for three years. It
24 shall also include a form, as prescribed by the Controller, by which
25 the owner may declare an intention to maintain the deposit,
26 account, shares, or other interest. If that form is filled out, signed
27 by the owner, and returned to the banking or financial organization,
28 it shall satisfy the requirement of clause (iii) of subparagraph (A)
29 of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2),
30 or clause (iii) of subparagraph (A) of paragraph (6) of subdivision
31 (a) of Section 1513. In lieu of returning the form, the banking or
32 financial organization may provide a telephone number or other
33 electronic means to enable the owner to contact that organization.
34 The contact, as evidenced by a memorandum or other record on
35 file with the banking or financial organization, shall satisfy the
36 requirement of clause (iii) of subparagraph (A) of paragraph (1),
37 clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of
38 subparagraph (A) of paragraph (6) of subdivision (a) of Section
39 1513. If the deposit, account, shares, or other interest has a value
40 greater than two dollars (\$2), the banking or financial organization

1 may impose a service charge on the deposit, account, shares, or
2 other interest for this notice in an amount not to exceed the
3 administrative cost of mailing or electronically sending the notice
4 and form and in no case to exceed two dollars (\$2).

5 (c) Notice as provided by subdivisions (a) and (b) shall not be
6 required for deposits, accounts, shares, or other interests of less
7 than fifty dollars (\$50), and, except as provided in subdivision (b),
8 no service charge may be made for notice on these items.

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

14 (e) At the time a new account is opened with a banking or
15 financial organization, the organization shall provide a written
16 notice to the person opening the account informing the person that
17 his or her property may be transferred to the appropriate state if
18 no activity occurs in the account within the time period specified
19 by state law. If the person opening the account has consented to
20 electronic notice, that notice may be provided electronically.

21 SEC. 2. Section 1530 of the Code of Civil Procedure is
22 amended to read:

23 1530. (a) Every person holding funds or other property
24 escheated to this state under this chapter shall report to the
25 Controller as provided in this section.

26 (b) The report shall be on a form prescribed or approved by the
27 Controller and shall include:

28 (1) Except with respect to traveler's checks and money orders,
29 the name, if known, and last known address, if any, of each person
30 appearing from the records of the holder to be the owner of any
31 property of value of at least fifty dollars (\$50) escheated under
32 this chapter. This paragraph shall become inoperative on July 1,
33 2014.

34 (2) Except with respect to traveler's checks and money orders,
35 the name, if known, and last known address, if any, of each person
36 appearing from the records of the holder to be the owner of any
37 property of value of at least twenty-five dollars (\$25) escheated
38 under this chapter. This paragraph shall become operative on July
39 1, 2014.

1 (3) In the case of escheated funds of life insurance corporations,
2 the full name of the insured or annuitant, and his or her last known
3 address, according to the life insurance corporation's records.

4 (4) In the case of the contents of a safe deposit box or other
5 safekeeping repository or in the case of other tangible property, a
6 description of the property and the place where it is held and may
7 be inspected by the Controller. The report shall set forth any
8 amounts owing to the holder for unpaid rent or storage charges
9 and for the cost of opening the safe deposit box or other
10 safekeeping repository, if any, in which the property was contained.

11 (5) The nature and identifying number, if any, or description of
12 any intangible property and the amount appearing from the records
13 to be due, except that items of value under ~~fifty dollars (\$50)~~ *twenty*
14 *five dollars (\$25)* each may be reported in aggregate ~~if the name~~
15 ~~of the owner is unknown and there is no last known address in the~~
16 ~~records of the holder.~~

17 (6) Except for any property reported in the aggregate, the date
18 when the property became payable, demandable, or returnable,
19 and the date of the last transaction with the owner with respect to
20 the property.

21 (7) Other information which the Controller prescribes by rule
22 as necessary for the administration of this chapter.

23 (c) If the holder is a successor to other persons who previously
24 held the property for the owner, or if the holder has changed his
25 or her name while holding the property, he or she shall file with
26 his or her report all prior known names and addresses of each
27 holder of the property.

28 (d) The report shall be filed before November 1 of each year as
29 of June 30 or fiscal yearend next preceding, but the report of life
30 insurance corporations, and the report of all insurance corporation
31 demutualization proceeds subject to Section 1515.5, shall be filed
32 before May 1 of each year as of December 31 next preceding. The
33 initial report for property subject to Section 1515.5 shall be filed
34 on or before May 1, 2004, with respect to conditions in effect on
35 December 31, 2003, and all property shall be determined to be
36 reportable under Section 1515.5 as if that section were in effect
37 on the date of the insurance company demutualization or related
38 reorganization. The Controller may postpone the reporting date
39 upon his or her own motion or upon written request by any person
40 required to file a report.

1 (e) The report, if made by an individual, shall be verified by the
2 individual; if made by a partnership, by a partner; if made by an
3 unincorporated association or private corporation, by an officer;
4 and if made by a public corporation, by its chief fiscal officer or
5 other employee authorized by the holder.

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