

ASSEMBLY BILL

No. 2258

Introduced by Assembly Member Eggman

February 18, 2016

An act to amend Section 1513 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2258, as introduced, Eggman. Unclaimed property.

Existing law prescribes the circumstances under which property held or owing by a business association escheats to the state. Existing law specifies that any demand, savings, or matured time deposit, or account subject to a negotiable order of withdrawal, made with a banking organization escheats to the state if the owner, for more than three years, has not increased or decreased the amount of the deposit. Existing law specifies that any demand, savings, or matured time deposit, or matured investment certificate, or account subject to a negotiable order of withdrawal, or other interest in a financial organization, escheats to the state when the owner, for more than three years, has not increased or decreased the amount of the funds or deposit.

This bill would provide that, for purposes of determining whether the above-described property escheats to the state, specified transactions that are initiated electronically through automated clearing house (ACH) transactions and are reflected in the books and records of a banking or financial organization would constitute an increase or decrease in the amount of the funds or deposit held by the banking or financial organization.

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 not, where made in this state)~~ *state*, exceed
13 those set forth in schedules filed by the banking organization from
14 time to time with the Controller, ~~when~~ *if* the owner, for more than
15 three years, 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 clause (i), (ii), or (iii) of subparagraph (A), and the banking
34 organization has communicated electronically or in writing with
35 the owner, at the address to which communications regarding that
36 deposit, account, or plan are regularly sent, with regard to the
37 deposit or account that would otherwise escheat under
38 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 not, where made in this state)~~ *state*, exceed
14 those set forth in schedules filed by the financial organization from
15 time to time with the Controller, ~~when if~~ the owner, for more than
16 three years, 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 clause (i), (ii), or (iii) of subparagraph (A), and the financial
35 organization has communicated electronically or in writing with
36 the owner, at the address to which communications regarding that
37 deposit, account, or plan are regularly sent, with regard to the
38 deposit or account that would otherwise escheat under
39 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 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 if~~ 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 if~~ 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 association, including a banking or financial~~
25 ~~organization); organization~~, that has been outstanding for more
26 than seven years from the date it was payable, or from the date of
27 its issuance if payable on demand, excluding any reasonable service
28 charges that may lawfully be withheld and that do not, when made
29 in this state, exceed those set forth in schedules filed by the
30 business association from time to time with the Controller, ~~when~~
31 ~~if~~ the owner, for more than seven years, has not corresponded
32 electronically or in writing with the business association, banking,
33 or financial organization concerning it, or otherwise indicated an
34 interest as evidenced by a memorandum or other record on file
35 with the business association. For the purposes of this subdivision,
36 “reasonable service charge” means a service charge that meets all
37 of the following requirements:

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

39 (B) It is clearly disclosed to the purchaser at the time of purchase
40 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~~ *if* the owner, for more than three years after the
13 funds become payable or distributable, has not done any of the
14 following:

15 (i) Increased or decreased the principal.

16 (ii) Accepted payment of principal or income.

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

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

9 (1) *“Increased or decreased the amount of the deposit” and*
10 *“increased or decreased the amount of the funds or deposit”*
11 *includes the following transactions that are initiated electronically*
12 *through automated clearing house (ACH) transactions and are*
13 *reflected in the books and records of the banking or financial*
14 *organization:*

15 (A) *A single or recurring debit transaction authorized by the*
16 *owner.*

17 (B) *A single or recurring credit transaction authorized by the*
18 *owner.*

19 (C) *Recurring transactions authorized by the owner that*
20 *represent payroll deposits or deductions.*

21 (D) *Recurring credits authorized by the owner or a responsible*
22 *party that represent the deposit of any federal benefits, including*
23 *social security benefits, veterans’ benefits, and pension payments.*

24 (2) *“Service charges” means service charges imposed because*
25 *of the inactivity contemplated by this section.*