

AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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~~ *through an electronic fund transfer, as defined by a federal regulation*, 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 made in this state, exceed those set forth in
13 schedules filed by the banking organization from time to time with
14 the Controller, if the owner, for more than three years, has not
15 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

1 deposit, account, or plan are regularly sent, with regard to the
2 deposit or account that would otherwise escheat under
3 subparagraph (A). For purposes of this subparagraph,
4 “communications” includes account statements or statements
5 required under the internal revenue laws of the United States.

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

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

20 (i) Increased or decreased the amount of the funds or deposit,
21 cashed an interest check, or presented an appropriate record for
22 the crediting of interest or dividends.

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

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

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

1 deposit or account that would otherwise escheat under
2 subparagraph (A). For purposes of this subparagraph,
3 “communications” includes account statements or statements
4 required under the internal revenue laws of the United States.

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

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

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

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

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

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

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

6 (D) It is permitted by contract between the issuer and the
7 purchaser.

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

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

- 16 (i) Increased or decreased the principal.
- 17 (ii) Accepted payment of principal or income.
- 18 (iii) Corresponded electronically or in writing concerning the
19 property or otherwise indicated an interest.

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

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

- 38 (i) Under the terms of the account or plan, distribution of all or
39 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, the following terms have the
- 8 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~~ *through an*
- 13 *electronic fund transfer, as defined in 12 C.F.R. 1005.3*, and are
- 14 reflected in the books and records of the banking or financial
- 15 organization:
- 16 (A) A single or recurring debit transaction authorized by the
- 17 owner.
- 18 (B) A single or recurring credit transaction authorized by the
- 19 owner.
- 20 (C) Recurring transactions authorized by the owner that
- 21 represent payroll deposits or deductions.
- 22 (D) Recurring credits authorized by the owner or a responsible
- 23 party that represent the deposit of any federal benefits, including
- 24 social security benefits, veterans’ benefits, and pension payments.
- 25 (2) “Service charges” means service charges imposed because
- 26 of the inactivity contemplated by this section.