

AMENDED IN ASSEMBLY MAY 24, 1996
AMENDED IN ASSEMBLY MAY 16, 1996
AMENDED IN ASSEMBLY MARCH 27, 1996

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 3137

Introduced by Assembly Member Miller

February 23, 1996

An act to amend Section 1517 of, and to add and repeal Section 1523 of, the Code of Civil Procedure, and to add Sections 12936 and 12937 to the Insurance Code, relating to insurance, *and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 3137, as amended, Miller. Insurance: insurers: escheat.

Existing law provides that all property, as defined, distributable in the course of a voluntary or involuntary dissolution or liquidation of a business association that is unclaimed by the owner within 6 months after the date of final distribution or liquidation escheats to the state. Escheated property is administered by the Controller, with money and proceeds from the sale of property deposited in the Abandoned Property Account in the Unclaimed Property Fund, to be transferred on a regular basis to the General Fund, as specified.

This bill would provide for transfer to the Department of Insurance of all property distributable in the course of

voluntary or involuntary dissolution or liquidation of an insurer, as specified, with any proceeds of sale of property or other funds to be deposited in the Insurance Fund for expenditure by the Insurance Commissioner to fund proceedings and to pay expenses on nonasseted estates for which liabilities have been or will be incurred.

This bill would also provide that insurance rebates ordered or negotiated pursuant to Proposition 103 would escheat to the state if an insurer, after a good faith effort, determined that the policyholder entitled to the rebate could not be located, as specified. This provision would be repealed upon a determination by the Insurance Commissioner that all Proposition 103 rebates have been paid or have escheated to the state, as specified. These funds would be deposited in the Insurance Fund, and would be available for expenditure by the commissioner to fund consumer services programs and to bring enforcement actions against insurers, as specified.

The bill would allow a policyholder to file a claim for escheated funds that have been deposited in the Insurance Fund, as specified. The department would not be required to conduct outreach programs to locate policyholders.

Since this bill would affect the distribution of insurance rebates ordered or negotiated under Proposition 103, it would amend Proposition 103 and, thus, would require a 2/3 vote for enactment.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. 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 1517 of the Code of Civil
- 2 Procedure is amended to read:
- 3 1517. (a) All property distributable in the course of a
- 4 voluntary or involuntary dissolution or liquidation of a
- 5 business association that is unclaimed by the owner
- 6 within six months after the date of final distribution or
- 7 liquidation escheats to this state.



1 (b) All property distributable in the course of
2 voluntary or involuntary dissolution or liquidation of an
3 insurer or other person brought under Article 14
4 (commencing with Section 1010) of Chapter 1 of Part 2
5 of Division 1 of the Insurance Code, that is unclaimed by
6 the owner after six months of the date of final distribution,
7 shall be transferred to the Department of Insurance, with
8 any proceeds of sale of property and other funds to be
9 deposited in the Insurance Fund for expenditure as
10 provided in Section 12937 of the Insurance Code.

11 (c) This section applies to all tangible personal
12 property located in this state and, subject to Section 1510,
13 to all intangible personal property.

14 SEC. 2. Section 1523 is added to the Code of Civil
15 Procedure, to read:

16 1523. (a) If an insurer, after a good faith effort to
17 locate and deliver to a policyholder a Proposition 103
18 rebate ordered or negotiated pursuant to Section 1861.01
19 of the Insurance Code, determines that a policyholder
20 cannot be located, all funds attributable ~~as of January 1,~~
21 ~~1996,~~ to that rebate escheat ~~and to the state.~~ *The funds*
22 *that are subject to escheat on or after January 1, 1996,* shall
23 be transferred to the Department of Insurance for
24 deposit in the Insurance Fund, for expenditure as
25 provided in Section 12936 of the Insurance Code. *The*
26 *remaining funds shall be deposited in the Unclaimed*
27 *Property Fund and transferred as provided in Section*
28 *1564.*

29 (b) Upon a determination by the Commissioner of
30 Insurance that all Proposition 103 rebates pursuant to
31 Section 1861.01 of the Insurance Code have been paid to
32 policyholders or have escheated and have been
33 transferred ~~to the Insurance Fund~~ pursuant to
34 subdivision (a), the commissioner shall notify the
35 Secretary of State of that determination, and this section
36 shall as of that date be repealed.

37 SEC. 3. Section 12936 is added to the Insurance Code,
38 to read:

39 12936. (a) Escheated funds deposited in the
40 Insurance Fund pursuant to Section 1523 of the Code of



1 Civil Procedure shall be available for expenditure by the
2 commissioner to fund consumer services programs of the
3 department, including services provided pursuant to
4 Sections 12921.1, 12921.3, and 12921.4. The funds may also
5 be used to bring enforcement actions against insurers,
6 when appropriate.

7 (b) A policyholder who was entitled to a rebate
8 pursuant to settlement or order of the commissioner and
9 who has not received the rebate may submit a claim to the
10 commissioner. The commissioner shall pay the claim
11 from the escheated funds deposited in the Insurance
12 Fund pursuant to subdivision (a) upon verification that
13 the claim is valid.

14 (c) The department shall not be required to conduct
15 outreach programs to attempt to locate policyholders
16 described in subdivision (b).

17 SEC. 4. Section 12937 is added to the Insurance Code,
18 to read:

19 12937. (a) Escheated funds deposited in the
20 Insurance Fund pursuant to subdivision (b) of Section
21 1517 of the Code of Civil Procedure shall be available for
22 expenditure by the commissioner to fund proceedings
23 and to pay expenses on nonasseted estates for which
24 liabilities have been or will be incurred.

25 (b) A policyholder who was entitled to funds
26 described in subdivision (a) pursuant to an order of
27 distribution and who has not previously received an
28 appropriate distribution may submit a claim to the
29 commissioner. The commissioner shall pay the claim
30 from the escheated funds deposited in the Insurance
31 Fund pursuant to subdivision (a) upon verification that
32 the claim is valid.

33 (c) The department shall not be required to conduct
34 outreach programs to attempt to locate policyholders
35 described in subdivision (b).

36 SEC. 5. *The sum of fourteen million dollars*
37 *(\$14,000,000) is hereby appropriated from the Insurance*
38 *Fund to the Department of Insurance. Of this amount,*
39 *three million dollars (\$3,000,000) shall be available to the*
40 *department for regulation of insurance companies and*



1 *insurance producers, in addition to funds provided for*
2 *that purpose through the budget process, and eleven*
3 *million dollars (\$11,000,000) shall be available to the*
4 *department to satisfy the department's obligations*
5 *arising from the court decisions in National Association of*
6 *Independent Insurers v. Garamendi (Court of Appeal,*
7 *Third Appellate District, Case No. CO16989) and*
8 *National Fire Insurance Co. of Hartford v. Quackenbush*
9 *(Superior Court, City and County of San Francisco, Case*
10 *No. 918689, consolidated with Case No. 947565).*

11 *SEC. 6. The Legislature finds and declares that this*
12 *act furthers the purposes of Proposition 103 by providing*
13 *that rebates required by Proposition 103 but that cannot*
14 *be made will be used for the benefit of insurance*
15 *consumers.*

16 *SEC. 6. This act is an urgency statute necessary for the*
17 *immediate preservation of the public peace, health, or*
18 *safety within the meaning of Article IV of the*
19 *Constitution and shall go into immediate effect. The facts*
20 *constituting the necessity are:*

21 *In order to provide funds as soon as possible to pay the*
22 *judgment against the Department of Insurance in*
23 *National Association of Independent Insurers v.*
24 *Garamendi, and to provide funds for the department's*
25 *operating budget to alleviate any shortfalls resulting from*
26 *the holding in that case, it is necessary that this act take*
27 *effect immediately.*

