

Assembly Bill No. 698

Passed the Assembly August 27, 1998

Chief Clerk of the Assembly

Passed the Senate August 25, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Sections 1540 and 1571 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 698, Cardenas. Unclaimed property.

Existing law, known as the Unclaimed Property Law, provides for the escheat to the state of, among other property, certain personal property held or owing in the ordinary course of the holder's business. Existing law authorizes the Controller, or upon the request of the Controller, one of certain licensing or regulatory agencies, to examine the records of a holder of property of another to determine if the holder is in compliance with the Unclaimed Property Law. Existing law authorizes the Controller to bring an action to enforce specified provisions of the Unclaimed Property Law and provides for the imposition of penalties and interest against holders who willfully fail to comply with the Unclaimed Property Law.

This bill would direct the Controller, after holding public hearings, to adopt guidelines as to the policies and procedures governing 3rd-party auditors who are hired by the Controller, and to establish guidelines, forms, and procedures for filing claims and for disputing or appealing a record examination.

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

SECTION 1. Section 1540 of the Code of Civil Procedure is amended to read:

1540. (a) Any person, excluding another state, who claims an interest in property paid or delivered to the Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the Controller and shall be verified by the claimant.



(b) The Controller shall consider each claim within 90 days after it is filed and may hold a hearing and receive evidence. The Controller shall give written notice to the claimant if he or she denies the claim in whole or in part. The notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) The Controller shall add interest at the rate of 5 percent compounded annually or the current interest rate received upon deposits held in the Pooled Money Investment Account, whichever is lower, to the amount of any claim paid the owner under this section for the period the property was on deposit in the Unclaimed Property Fund. No interest shall be payable for any period prior to January 1, 1977.

(d) Any holder who pays to the owner, property that has escheated to the state and that, if claimed from the Controller, would be subject to subdivision (c) may add interest as provided in subdivision (c). This added interest shall be repaid to the holder by the Controller in the same manner as the principal.

(e) For the purposes of this section, "owner" means the person who had legal right to the property prior to its escheat, his or her heirs, or his or her legal representative.

(f) Following a public hearing, the Controller shall adopt guidelines and forms that shall provide specific instructions to assist owners in filing claims pursuant to this article.

SEC. 2. Section 1571 of the Code of Civil Procedure is amended to read:

1571. (a) The Controller may at reasonable times and upon reasonable notice examine the records of any person if the Controller has reason to believe that the person is a holder who has failed to report property that should have been reported pursuant to this chapter.



(b) When requested by the Controller, the examination shall be conducted by any licensing or regulating agency otherwise empowered by the laws of this state to examine the records of the holder. For the purpose of determining compliance with this chapter, the Commissioner of Financial Institutions is vested with full authority to examine the records of any banking organization and any savings association doing business within this state but not organized under the laws of or created in this state.

(c) Following a public hearing, the Controller shall adopt guidelines as to the policies and procedures governing the activity of third-party auditors who are hired by the Controller.

(d) Following a public hearing, the Controller shall adopt guidelines, on or before July 1, 1999, establishing forms, policies, and procedures to enable a person to dispute or appeal the results of any record examination conducted pursuant to this section.

SEC. 3. This act shall not be construed to affect any civil action or proceeding pending on or before January 1, 1999. This act shall only apply prospectively.



Approved _____, 1998

Governor

