

Assembly Bill No. 777

CHAPTER 835

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

[Approved by Governor October 8, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 777, Cardenas. Escheat.

Under the existing Unclaimed Property Law, prescribed deposits or accounts with a banking or financial organization escheat to the state when the owner of the deposits or accounts has not, for more than 3 years, indicated an interest in the deposit, as specified. Existing law also authorizes the withholding of reasonable service charges, as specified, for these purposes.

This bill would provide that these deposits or accounts would not escheat if the owner has, within 3 years, cashed an interest check, or owned another deposit or account that is not subject to escheat and the organization has communicated with the owner regarding that deposit or account that would otherwise escheat at the address to which the banking organization has sent communications regarding the other deposit or account. The bill would also specify the requirements for service charges with respect to money orders that escheat after having been outstanding for more than 7 years.

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

SECTION 1. Section 1513 of the Code of Civil Procedure is amended to read:

1513. Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Except as provided in subdivision (f), any demand, savings, or matured time deposit, or account subject to a negotiable order of withdrawal, made with a banking organization, together with any interest or dividends thereon, excluding, from demand deposits and accounts subject to a negotiable order of withdrawal only, any reasonable service charges that may lawfully be withheld and that do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the Controller, when the owner, for more than three years, has not done any of the following:



(1) Increased or decreased the amount of the deposit, cashed an interest check, or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(2) Corresponded electronically or in writing with the banking organization concerning the deposit.

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

A deposit or account shall not, however, escheat to the state if, during the previous three years, the owner has owned another deposit or account with the banking organization and, with respect to that deposit or account, the owner has done any of the acts described in paragraph (1), (2), or (3), and the banking organization has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit or account are regularly sent, with regard to the deposit or account that would otherwise escheat under this subdivision. For purposes of this subdivision, “communications” means account statements or statements of interest paid for federal and state income tax purposes.

No banking organization may discontinue any interest or dividends on any savings deposit because of the inactivity contemplated by this section.

(b) Except as provided in subdivision (f), 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 or any deposit made therewith, and any interest or dividends thereon, excluding, from demand deposits and accounts subject to a negotiable order of withdrawal only, any reasonable service charges that may lawfully be withheld and that do not (where made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the Controller, when the owner, for more than three years, has not done any of the following:

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

(2) Corresponded electronically or in writing with the financial organization concerning the funds or deposit.

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

A deposit or account shall not, however, escheat to the state if, during the previous three years, the owner has owned another deposit or account with the financial organization and, with respect to that deposit or account, the owner has done any of the acts described in paragraph (1), (2), or (3), and the financial organization has communicated electronically or in writing with the owner, at the



address to which communications regarding that deposit or account are regularly sent, with regard to the deposit or account that would otherwise escheat under this subdivision. For purposes of this subdivision, “communications” means account statements or statements of interest paid for federal and state income tax purposes.

No financial organization may discontinue any interest or dividends on any funds paid toward purchase of shares or other interest, or on any deposit, because of the inactivity contemplated by this section.

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

(d) Any sum payable on any other written instrument on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft or certified check, that has been outstanding for more than five years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than five years, has not corresponded electronically or in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

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

- (1) It is uniformly applied to all of the issuer’s money orders.
- (2) It is clearly disclosed to the purchaser at the time of purchase and to the recipient of the money order.
- (3) It does not begin to accrue until three years after the purchase date, and it stops accruing after the value of the money order escheats.
- (4) It is permitted by contract between the issuer and the purchaser.



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

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

- (1) Increased or decreased the principal.
- (2) Accepted payment of principal or income.
- (3) Corresponded electronically or in writing concerning the property or otherwise indicated an interest.

These funds are not payable or distributable within the meaning of this subdivision unless, under the terms of the account or plan, distribution of all or a part of the funds would then be mandatory.

(g) For purposes of this section “service charges” means service charges imposed because of the inactivity contemplated by this section.

