

Assembly Bill No. 1291

Passed the Assembly September 11, 2009

Chief Clerk of the Assembly

Passed the Senate September 10, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1513, 1513.5, 1514, 1516, 1520, 1532, 1560, and 1577 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, Niello. Unclaimed property.

Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. Those provisions require a person holding funds or other property escheated to the state to report to the Controller certain information regarding the property and the owner.

Existing law provides for the escheat to the state of (1) certain deposits or accounts made with a banking organization, together with other specified sums, (2) certain deposits, accounts, investment certificates, or other interests in or deposits made with a financial organization, together with other specified sums, and (3) certain funds held by a business association in specified retirement accounts or plans, when the owner, for more than 3 years, has not taken any of certain actions, except as specified.

Existing law requires certain entities to make reasonable efforts to notify owners of certain property, by mail, that the property will escheat to the state under specified provisions of law.

This bill would allow those entities to notify an owner described above electronically if the owner has consented to electronic notice.

Existing law requires the holder of certain property, including certain property held by a banking or financial organization, certain sums held or owing by a business association to shareholders or other specified persons, and tangible property that is held in the ordinary course of the holder's business, to notify the owner, at prescribed times, of information regarding escheat and to include a form by which the owner may declare an intention to maintain the deposit, account, shares, or other interest.

This bill would require that those notices contain certain information, and would allow the holder to provide a telephone number or other electronic means to enable the owner to contact

the organization in lieu of returning the above-described form to declare the owner's intent. The bill would authorize the holder to give additional notices, as specified. The bill, commencing January 1, 2011, would require that, at the time a new account is opened with a banking or financial organization, the organization provide a written notice to the person opening the account regarding escheat.

Existing law provides that the contents of any safe deposit box or any other safekeeping repository held in this state by a bank, financial organization, or business association escheat to the state if unclaimed by the owner for more than 3 years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of another specified agreement, whichever occurs last.

This bill would require a bank, financial organization, or business association to notify the owner of the contents of a safe deposit box, at either of 2 specified times, regarding escheat, and would specify the contents of the notice. The bill would require that notice to include a form by which the customer may declare an intention to maintain the safe deposit box or other safekeeping repository, and would authorize the bank, financial organization, or business association to impose a service charge for the notice and form. The bill would provide that the contents of a safe deposit box shall not escheat to the state under certain circumstances. The bill would also require a bank, financial organization, or business association to provide a notice regarding escheat to a person opening a new account for a safe deposit box or other safekeeping repository.

Existing law requires every person holding funds or other property escheated to the state to report to the Controller, as specified. Existing law requires every person filing such a report to pay or deliver to the Controller all escheated property specified in the report within a certain period.

This bill would allow the Controller to postpone the date for payment or delivery of the property, and the date for any report required by the above provisions, upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report.

Existing law provides that a person who pays or delivers escheated property to the Controller under the above provisions is relieved of all liability to the extent of the value of the property

paid or delivered for any claim that then exists or that thereafter may arise.

This bill would provide, instead, that a person who pays or delivers escheated property to the Controller under the above provisions and who, prior to escheat, if the person's records contain an address for the apparent owner, which the holder's records do not disclose to be inaccurate, has made reasonable efforts to notify the owner by mail or electronically that the owner's property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

Existing law requires that any person who fails to report, pay, or deliver unclaimed property within the time prescribed by these provisions, unless that failure is due to reasonable cause, pay to the Controller interest at the rate of 12% per annum on that property or value thereof from the date the property should have been reported, paid, or delivered.

This bill would require, in addition, that any person who fails to file a report substantially in the time and manner required by specified provisions of law, unless that failure is due to reasonable cause, pay to the Controller interest as described above. The bill would limit the interest payable to the Controller if a holder has failed to file a report in a required manner, but has timely paid or delivered the property to the Controller.

This bill would make other related and conforming changes.

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

(1) (A) Except as provided in paragraph (6), 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:

- (i) 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.
- (ii) Corresponded electronically or in writing with the banking organization concerning the deposit.
- (iii) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

(B) 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 or the owner has owned an individual retirement account or funds held by the banking organization under a retirement plan for self-employed individuals or a similar account or plan established pursuant to the internal revenue laws of the United States or the laws of this state, as described in paragraph (6), and, with respect to that deposit, account, or plan, the owner has done any of the acts described in clauses (i), (ii) or (iii) of subparagraph (A), and the banking organization has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit, account, or plan are regularly sent, with regard to the deposit, account, or plan that would otherwise escheat under subparagraph (A). For purposes of this subparagraph, “communications” includes account statements or statements required under the internal revenue laws of the United States.

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

(2) (A) Except as provided in paragraph (6), 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:

(i) 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.

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

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

(B) 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 or the owner has owned an individual retirement account or funds held by the financial organization under a retirement plan for self-employed individuals or a similar account or plan established pursuant to the internal revenue laws of the United States or the laws of this state, as described in paragraph (6), and, with respect to that deposit, account, or plan, the owner has done any of the acts described in clauses (i), (ii) or (iii) of subparagraph (A), and the financial organization has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit, account, or plan are regularly sent, with regard to the deposit, account, or plan that would otherwise escheat under subparagraph (A). For purposes of this subparagraph, “communications” includes account statements or statements required under the internal revenue laws of the United States.

(C) 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.

(3) 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.

(4) 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, cashier's check, teller's check, or certified check, that has been outstanding for more than three years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than three 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.

(5) 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:

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

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

(C) 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.

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

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

(6) (A) 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:

(i) Increased or decreased the principal.

(ii) Accepted payment of principal or income.

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

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

(C) 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.

(7) Any wages or salaries that have remained unclaimed by the owner for more than one year after the wages or salaries become payable.

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

SEC. 2. Section 1513.5 of the Code of Civil Procedure is amended to read:

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder’s records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify any owner by mail or, if the owner has consented to electronic notice, electronically, that the owner’s deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A) of paragraphs (1), (2), or (6) of subdivision (a) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the banking or financial organization.

(2) Not less than six nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading at the top that reads as follows: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US,” or substantially similar language. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the owner, and returned to the banking or financial organization, it shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. In lieu of returning the form, the banking or financial organization may provide a telephone number or other electronic means to enable the owner to contact that organization. The contact, as evidenced by a memorandum or other record on file with the banking or financial organization, shall satisfy the requirement of clause (iii)

of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. The banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form and in no case to exceed two dollars (\$2).

(c) Notice as provided by subdivisions (a) and (b) shall not be required for deposits, accounts, shares, or other interests of less than fifty dollars (\$50), and no service charge may be made for notice on these items.

(d) In addition to the notices required pursuant to subdivision (a), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, account, shares, or other interest to the Controller.

(e) At the time a new account is opened with a banking or financial organization, the organization shall provide a written notice to the person opening the account informing the person that his or her property may be transferred to the appropriate state if no activity occurs in the account within the time period specified by state law. If the person opening the account has consented to electronic notice, that notice may be provided electronically. This subdivision shall become effective on January 1, 2011.

SEC. 3. Section 1514 of the Code of Civil Procedure is amended to read:

1514. (a) The contents of, or the proceeds of sale of the contents of, any safe deposit box or any other safekeeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than three years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever last occurs.

(b) If a business association has in its records an address for an apparent owner of the contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository described in subdivision (a), and the records of the business association do not disclose the address to be inaccurate, the

business association shall make reasonable efforts to notify the owner by mail, or, if the owner has consented to electronic notice, electronically, that the owner's contents, or the proceeds of the sale of the contents, will escheat to the state pursuant to this section. The business association shall give notice not less than six months and not more than 12 months before the time the contents, or the proceeds of the sale of the contents, become reportable to the Controller in accordance with this chapter.

(c) The face of the notice shall contain a heading at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this subdivision shall specify the date that the property will escheat and the effects of escheat, including the necessity for filing a claim for the return of the property. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, do all of the following:

(1) Identify the safe deposit box or other safekeeping repository by number or identifier.

(2) State that the lease or rental period on the box or repository has expired or the agreement has terminated.

(3) Indicate that the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository will escheat to the state unless the owner requests the contents or their proceeds.

(4) Specify that the California Unclaimed Property Law requires business associations to transfer the contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository to the Controller if they remain unclaimed for more than three years.

(5) Advise the owner to make arrangements with the business association to either obtain possession of the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository, or enter into a new agreement with the business association to establish a leasing or rental arrangement. If an owner fails to establish such an arrangement prior to the end of the period described in subdivision (a), such contents or proceeds shall escheat to this state.

(d) In addition to the notice required pursuant to subdivision (b), the business association may give additional notice in accordance with subdivision (c) at any time between the date on which the lease or rental period for the safe deposit box or repository expired, or from the date of the termination of any agreement, through which the box or other repository was furnished to the owner without cost, whichever is earlier, and the date the business association transfers the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository to the Controller.

(e) The contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository shall not escheat to the state if, as of June 30 or the fiscal yearend next preceding the date on which a report is required to be filed under Section 1530, the owner has owned, with a banking organization providing the safe deposit box or other safekeeping repository, any demand, savings, or matured time deposit, or account subject to a negotiable order of withdrawal, which has not escheated under Section 1513 and is not reportable under subdivision (d) of Section 1530.

(f) The contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository shall not escheat to the state if, as of June 30 or the fiscal yearend next preceding the date on which a report is required to be filed under Section 1530, the owner has owned, with a financial organization providing the safe deposit box or other safekeeping repository, 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, which has not escheated under Section 1513 and is not reportable under subdivision (d) of Section 1530.

(g) The contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository shall not escheat to the state if, as of June 30 or the fiscal yearend next preceding the date on which a report is required to be filed under Section 1530, the owner has owned, with a banking or financial organization providing the safe deposit box or other safekeeping repository, any funds in an individual retirement account or under a retirement plan for self-employed individuals or similar account or plan pursuant to the internal revenue laws of the United States

or the income tax laws of this state, which has not escheated under Section 1513 and is not reportable under subdivision (d) of Section 1530.

(h) In the event the owner is in default under the safe deposit box or other safekeeping repository agreement and the owner has owned any demand, savings, or matured time deposit, account, or plan described in subdivisions (e), (f), or (g), the banking or financial organization may pay or deliver the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository to the owner after deducting any amount due and payable from those proceeds under that agreement. Upon making that payment or delivery under these subdivisions, the banking or financial organization shall be relieved of all liability to the extent of the value of those contents or proceeds.

(i) For new accounts opened for a safe deposit box or other safekeeping repository with a business association on and after January 1, 2011, the business association shall provide a written notice to the person leasing the safe deposit box or safekeeping repository informing the person that his or her property, or the proceeds of sale of such property, may be transferred to the appropriate state upon running of the time period specified by state law from the date the lease or rental period on the safe deposit box or repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever is earlier.

(j) A business association may directly escheat the contents of a safe deposit box or other safekeeping repository without exercising its rights under Article 2 (commencing with Section 1660) of Chapter 13 of Division 1 of the Financial Code.

SEC. 4. Section 1516 of the Code of Civil Procedure is amended to read:

1516. (a) Subject to Section 1510, any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within three years after the date prescribed for payment or delivery, escheats to this state.

(b) Subject to Section 1510, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, escheats to this state if (1) the interest in the association is owned by a person who for more than three years has neither claimed a dividend or other sum referred to in subdivision (a) nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association, and (2) the association does not know the location of the owner at the end of the three-year period. With respect to the interest, the business association shall be deemed the holder.

(c) Subject to Section 1510, any dividends or other distributions held for or owing to a person at the time the stock or other security to which they attach escheats to this state also escheat to this state as of the same time.

(d) If the business association has in its records an address for the apparent owner, which the business association's records do not disclose to be inaccurate, with respect to any interest that may escheat pursuant to subdivision (b), the business association shall make reasonable efforts to notify the owner by mail or, if the owner has consented to electronic notice, electronically, that the owner's interest in the business association will escheat to the state. The notice shall be given not less than 6 nor more than 12 months before the time the interest in the business association becomes reportable to the Controller in accordance with this chapter. The face of the notice shall contain a heading at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this subdivision shall specify the time that the interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the interest. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other

interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the business association knows the location of the owner. In lieu of returning the form, the business association may provide a telephone number or other electronic means to enable the owner to contact the association. With that contact, as evidenced by a memorandum or other record on file with the business association, the business association shall be deemed to know the location of the owner. The business association may impose a service charge on the deposit, account, shares, or other interest for this notice and form in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form, and in no case to exceed two dollars (\$2).

(e) In addition to the notice required pursuant to subdivision (d), the holder may give additional notice as described in subdivision (d) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, shares, or other interest to the Controller.

SEC. 5. Section 1520 of the Code of Civil Procedure is amended to read:

1520. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

(b) Except as provided in subdivision (a) of Section 1513.5, subdivision (b) of Section 1514, and subdivision (d) of Section 1516, if the holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50) or more, which the holder's records do not disclose to be inaccurate, the holder shall make reasonable efforts to notify the owner by mail or, if the owner has consented to electronic notice, electronically, that the owner's

property will escheat to the state pursuant to this chapter. The notice shall be mailed not less than six nor more than 12 months before the time when the owner's property held by the business becomes reportable to the Controller in accordance with this chapter. The face of the notice shall contain a heading at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this subdivision shall specify the time when the property will escheat and the effects of escheat, including the need to file a claim in order for the owner's property to be returned to the owner. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the account, or other device in which the owner's property is being held, remains currently active and recommences the escheat period. In lieu of returning the form, the holder may provide a telephone number or other electronic means to enable the owner to contact the holder. With that contact, as evidenced by a memorandum or other record on file with the holder, the account or other device in which the owner's property is being held shall be deemed to remain currently active and shall recommence the escheat period. The holder may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form, and in no case to exceed two dollars (\$2).

(c) In addition to the notice required pursuant to subdivision (b), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the property to the Controller.

(d) For purposes of this section, “lawful charges” means charges which are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 6. Section 1532 of the Code of Civil Procedure is amended to read:

1532. (a) Every person filing a report as provided by Section 1530 shall, no sooner than seven months and no later than seven months and 15 days after the final date for filing the report, pay or deliver to the Controller all escheated property specified in the report. Any payment of unclaimed cash in an amount of at least twenty thousand dollars (\$20,000) shall be made by electronic funds transfer pursuant to regulations adopted by the Controller. The Controller may postpone the date for payment or delivery of the property, and the date for any report required by subdivision (b), upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report as required by this section.

(b) If a person establishes his or her right to receive any property specified in the report to the satisfaction of the holder before that property has been delivered to the Controller, or it appears that, for any other reason, the property may not be subject to escheat under this chapter, the holder shall not pay or deliver the property to the Controller but shall instead file a report with the Controller, on a form and in a format prescribed or approved by the Controller, containing information pertaining to the property not subject to escheat.

(c) Any property not paid or delivered pursuant to subdivision (b) that is later determined by the holder to be subject to escheat under this chapter shall not be subject to the interest provision of Section 1577.

(d) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the Controller or shall register the securities in uncertificated form in the name of the Controller. Upon delivering a duplicate certificate or providing evidence of registration of the securities in uncertificated form to

the Controller, the holder, any transfer agent, registrar, or other person acting for or on behalf of the holder in executing or delivering the duplicate certificate or registering the uncertificated securities, shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of the certificate issued to the Controller for any losses or damages resulting to that person by the issuance and delivery to the Controller of the duplicate certificate or the registration of the uncertificated securities to the Controller.

(e) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at another location as the Controller by regulation may designate. Except as otherwise agreed by the Controller and the holder, tangible personal property shall be delivered to the Controller at the place where it is held.

(f) Payment is deemed complete on the date the electronic funds transfer is initiated if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(g) Any person required to pay cash by electronic funds transfer who makes the payment by means other than an authorized electronic funds transfer shall be liable for a civil penalty of 2 percent of the amount of the payment that is due pursuant to this section, in addition to any other penalty provided by law. Penalties are due at the time of payment. If the Controller finds that a holder's failure to make payment by an appropriate electronic funds transfer in accordance with the Controller's procedures is due to reasonable cause and circumstances beyond the holder's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that holder shall be relieved of the penalties.

(h) An electronic funds transfer shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, a Federal Reserve Wire Transfer (Fedwire), or by an international funds transfer. Banking costs incurred for the automated clearinghouse debit transaction by the holder shall be paid by the

state. Banking costs incurred by the state for the automated clearinghouse credit transaction may be paid by the holder originating the credit. Banking costs incurred for the Fedwire transaction charged to the holder and the state shall be paid by the person originating the transaction. Banking costs charged to the holder and to the state for an international funds transfer may be charged to the holder.

(i) For purposes of this section:

(1) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, modem, computer, or magnetic tape, so as to order, instruct, or authorize a financial institution to credit or debit an account.

(2) “Automated clearinghouse” means any federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association or any similar organization, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and that authorizes an electronic transfer of funds between those banks or bank accounts.

(3) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the holder’s bank account and crediting the state’s bank account for the amount of payment.

(4) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the holder, through its own bank, originates an entry crediting the state’s bank account and debiting the holder’s bank account.

(5) “Fedwire” means any transaction originated by the holder and utilizing the national electronic payment system to transfer funds through federal reserve banks, pursuant to which the holder debits its own bank account and credits the state’s bank account.

(6) “International funds transfer” means any transaction originated by the holder and utilizing the international electronic payment system to transfer funds, pursuant to which the holder debits its own bank account, and credits the funds to a United States bank that credits the Unclaimed Property Fund.

SEC. 7. Section 1560 of the Code of Civil Procedure is amended to read:

1560. (a) Upon the payment or delivery of escheated property to the Controller, the state shall assume custody and shall be responsible for the safekeeping of the property. Any person who pays or delivers escheated property to the Controller under this chapter and who, prior to escheat, if the person's records contain an address for the apparent owner, which the holder's records do not disclose to be inaccurate, has made reasonable efforts to notify the owner by mail or, if the owner has consented to electronic notice, electronically, in substantial compliance with Sections 1513.5, 1514, 1516, and 1520, that the owner's property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Property removed from a safe deposit box or other safekeeping repository shall be received by the Controller subject to any valid lien of the holder for rent and other charges, such rent and other charges to be paid out of the proceeds remaining after the Controller has deducted therefrom his or her selling cost.

(b) Any holder who has paid moneys to the State Controller pursuant to this chapter may make payment to any person appearing to such holder to be entitled thereto, and upon filing proof of such payment and proof that the payee was entitled thereto, the Controller shall forthwith reimburse the holder for the payment without deduction of any fee or other charges. Where reimbursement is sought for a payment made on a negotiable instrument (including a traveler's check or money order), the holder shall be reimbursed under this subdivision upon filing proof that the instrument was duly presented to him or her and that payment was made thereon to a person who appeared to the holder to be entitled to payment.

(c) The holder shall be reimbursed under this section even if he made the payment to a person whose claim against him was barred because of the expiration of any such period of time as those described in Section 1570.

(d) Any holder who has delivered personal property, including a certificate of any interest in a business association, to the Controller pursuant to this chapter may reclaim such personal property if still in the possession of the Controller without payment of any fee or other charges upon filing proof that the owner thereof

has claimed such personal property from such holder. The Controller may, in his or her discretion, accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subdivision as sufficient proof for the purposes of this subdivision.

SEC. 8. Section 1577 of the Code of Civil Procedure is amended to read:

1577. In addition to any damages, penalties, or fines for which a person may be liable under other provisions of law, any person who fails to report, pay, or deliver unclaimed property within the time prescribed by this chapter, unless that failure is due to reasonable cause, shall pay to the Controller interest at the rate of 12 percent per annum on that property or value thereof from the date the property should have been reported, paid, or delivered. If a holder pays or delivers unclaimed property in a timely manner, but files a report that is not in substantial compliance with the requirements of Section 1530, the interest payable shall not exceed ten thousand dollars (\$10,000). The holder shall not be subject to any interest payment if the holder's failure to report in substantial compliance with the requirements of Section 1530 is due to reasonable cause.

Approved _____, 2009

Governor