ASSEMBLY BILL No. 2117

Introduced by Assembly Member Niello

February 18, 2010

An act to amend Sections 1513, 1513.5, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, 1520, 1521, 1540, and 1564 of the Code of Civil Procedure, relating to unclaimed property.

legislative counsel's digest

AB 2117, as introduced, Niello. Unclaimed property.

(1) The Unclaimed Property Law provides for the escheat to the state of abandoned property, including certain deposits, accounts, shares, or other interests with a banking or financial organization, business association, or other holder of personal property. Under existing law, the holder of abandoned property transfers the property to the Controller after the property is inactive for a period of 3 years, including when the owner has not increased or decreased the amount of a deposit, cashed an interest check, or presented a passbook or other similar evidence of a deposit for the crediting of interest.

This bill would extend this 3-year period to require that the holder transfer the abandoned property to the Controller after the property is inactive for a period of 5 years.

(2) Existing law allows any person, excluding another state, who claims an interest in property paid or delivered to the Controller under the above provisions of law to file a claim to the property or to the net proceeds from its sale. Existing law requires the Controller to consider each claim within 180 days after it is filed.

This bill would require the Controller to add interest, at a prescribed rate, to the amount of any claim paid to the owner under these provisions for the period the property was on deposit in the Unclaimed Property Fund, except as specified. It would require a holder who pays to the owner property that has escheated to the state and that, if claimed from the Controller, would be subject to the provisions regarding the payment of interest to add interest in accordance with those provisions, and would require the Controller to repay that interest to the holder.

(3) Existing law requires that all money received pursuant to the Unclaimed Property Law, including proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund. This fund is continuously appropriated to the Controller, who is required to transfer all money in the fund in excess of $50,000 to the General Fund at the end of each month, as specified. Existing law requires the Controller to record the names and last known addresses of each person in connection with the escheated property, as specified, and to make this record available for public inspection.

This bill would delete the requirement that the Controller transfer all money in the Unclaimed Property Fund in excess of $50,000 to the General Fund and to record and make available specified names and addresses, as described above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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~~ *five* 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~~ *five* 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~~ *where* 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~~ *five* 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~~ *five* 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~~ *where* 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~~ *where* 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~~ *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 ~~three~~ *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.

(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~~ *five* 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~~ *where* 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~~ *five years* 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~~ *and* the holder's records do not disclose *it* 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~~ *that* 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~~ *five* 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~~ *five* years from the date ~~on which~~ *when* 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~~ *five* 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~~ *when* 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~~ *when* 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~~ *when* 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~~ *that* 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~~ *when* 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~~ *that* 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~~ *when* 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~~ *that* 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 1515 of the Code of Civil Procedure is amended to read:

1515. (a) Subject to Section 1510, funds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract ~~which~~ *that* has matured or terminated escheat to this state if unclaimed and unpaid for more than ~~three~~ *five* years after the funds became due and payable as established from the records of the corporation.

(b) If a person other than the insured or annuitant is entitled to the funds and no address of that person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation. This presumption is a presumption affecting the burden of proof.

(c) A life insurance policy not matured by actual proof of the death of the insured according to the records of the corporation is deemed to be matured and the proceeds due and payable if:

(1) The insured has attained, or would have attained if he or she were living, the limiting age under the mortality table ~~on which~~ *that* the reserve is based *on*.

(2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph (1).

(3) Neither the insured nor any other person appearing to have an interest in the policy has, within the preceding ~~three~~ *five* years, according to the records of the corporation (i) assigned, readjusted, or paid premiums on the policy, (ii) subjected the policy to loan, or (iii) corresponded in writing with the life insurance corporation concerning the policy.

(d) Any funds otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

SEC. 5. Section 1515.5 of the Code of Civil Procedure is amended to read:

1515.5. Property distributable in the course of a demutualization or related reorganization of an insurance company is deemed abandoned as follows:

(a) On the date of the demutualization or reorganization, if the instruments or statements reflecting the distribution are not mailed to the owner because the address on the books and records for the holder is known to be incorrect.

(b) Two years after the date of the demutualization or reorganization, if instruments or statements reflecting the distribution are mailed to the owner and returned by the post office as undeliverable and the owner has done neither of the following:

(1) Communicated in writing with the holder or its agent regarding the property.

(2) Otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(c) ~~Three~~ *Five* years after the date of the demutualization or reorganization, if instruments or statements reflecting the distribution are mailed to the owner and not returned by the post office as undeliverable and the owner has done neither of the following:

(1) Communicated in writing with the holder or its agent regarding the property.

(2) Otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

SEC. 6. 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~~ *five* 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~~ *five* 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~~ *five-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~~ *that* 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~~ *that* 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~~ *that* 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~~ *five* 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. 7. Section 1517 of the Code of Civil Procedure is amended to read:

1517. (a) All property distributable in the course of a voluntary or involuntary dissolution or liquidation of a business association that is unclaimed by the owner within ~~six months~~ *five years* after the date of final distribution or liquidation escheats to this state.

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

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

SEC. 8. Section 1518 of the Code of Civil Procedure is amended to read:

1518. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, and the income or increment on ~~such~~ *that* tangible or intangible property, held in a fiduciary capacity for the benefit of another person escheats to this state if after it becomes payable or distributable, the owner has not, within a period of ~~three~~ *five* years, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(b) Funds in an individual retirement account or 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 are not payable or distributable within the meaning of subdivision (a) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(c) For the purpose of this section, ~~when~~ *if* a person holds property as an agent for a business association, he or she is deemed to hold the property in a fiduciary capacity for the business association alone, unless the agreement between him or her and the business association clearly provides the contrary. For the purposes of this chapter, if a person holds property in a fiduciary capacity for a business association alone, he or she is the holder of the property only insofar as the interest of the business association in the property is concerned and the association is deemed to be the holder of the property insofar as the interest of any other person in the property is concerned.

SEC. 9. Section 1519 of the Code of Civil Procedure is amended to read:

1519. All tangible personal property located in this state, and, subject to Section 1510, all intangible personal property, held for the owner by any government or governmental subdivision or agency, that has remained unclaimed by the owner for more than ~~three~~ *five* years escheats to this state.

SEC. 10. 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~~ *five* 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~~ *five* 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~~ *that* are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 11. Section 1521 of the Code of Civil Procedure is amended to read:

1521. (a) Except as provided in subdivision (b), and subject to Section 1510, all employee benefit plan distributions and any income or other increment thereon escheats to the state if the owner has not, within ~~three~~ *five* years after it becomes payable or distributable, accepted the distribution, corresponded in writing concerning the distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which the trust or fund is established. As used in this section, "fiduciary" means any person exercising any power, authority, or responsibility of management or disposition with respect to any money or other property of a retirement system or plan, and "administrator" means the person specifically so designated by the plan, trust agreement, contract, or other instrument under which the retirement system or plan is operated, or if none is designated, the employer.

(b) Except as provided in subdivision (c), an employee benefit plan distribution and any income or other increment thereon shall not escheat to this state if, at the time the distribution shall become payable to a participant in an employee benefit plan, the plan contains a provision for forfeiture or expressly authorizes the administrator to declare a forfeiture of a distribution to a beneficiary thereof who cannot be found after a period of time specified in the plan, and the trust or fund established under the plan has not terminated prior to the date on which the distribution would become forfeitable in accordance with the provision.

(c) A participant entitled to an employee benefit plan distribution in the form of residuals shall be relieved from a forfeiture declared under subdivision (b) upon the making of a claim therefor.

SEC. 12. 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 180 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) No interest shall be payable on any claim paid under this chapter.~~

(c) (1) The Controller shall add interest at the rate of 5 percent per year or the bond equivalent rate of 13-week United States Treasury bills, whichever is lower, to the amount of any claim paid to 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. Any interest required to be paid by the state pursuant to this section shall be computed as simple interest, not as compound interest.

(2) For purposes of this section, the bond equivalent rate of 13-week United States Treasury bills shall be defined in accordance with the following criteria:

(A) The bond equivalent rate of 13-week United States Treasury bills established at the first auction held during the month of January shall apply for the following July 1 to December 31, inclusive.

(B) The bond equivalent rate of 13-week United States Treasury bills established at the first auction held during the month of July shall apply for the following January 1 to June 30, inclusive.

(d) A holder who pays to the owner property that has escheated and been remitted to the state, and that, if claimed from the Controller, would be subject to subdivision (c) shall add interest

as provided in subdivision (c). If interest is added, that interest shall be repaid to the holder by the Controller in the same manner as the principal.

~~(d)~~

(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, his or her legal representative, or a public administrator acting pursuant to the authority granted in Sections 7660 and 7661 of the Probate Code.

~~(e)~~

(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. 13. Section 1564 of the Code of Civil Procedure is amended to read:

1564. (a) All money received under this chapter, including the proceeds from the sale of property under Section 1563, shall be deposited in the Unclaimed Property Fund in an account titled "Abandoned Property."

(b) Notwithstanding Section 13340 of the Government Code, all money in the Abandoned Property Account in the Unclaimed Property Fund is hereby continuously appropriated to the Controller, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(1) For payment of claims allowed by the Controller under the provisions of this chapter.

(2) For refund, to the person making ~~such~~ *the* deposit, of amounts, including overpayments, deposited in error in ~~such~~ *the* fund.

(3) For payment of the cost of appraisals incurred by the Controller covering property held in the name of an account in ~~such~~ *the* fund.

(4) For payment of the cost incurred by the Controller for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs ~~which~~ *that* arose from holding any specific property or any specific funds ~~which~~ *that* were delivered or paid to the Controller, or ~~which~~

that arose from complying with this chapter with respect to ~~such~~ *that* property or funds.

(5) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(6) For payment of costs incurred by the Controller for the repair, maintenance, and upkeep of property held in the name of an account in ~~such~~ *the* fund.

(7) For payment of costs of official advertising in connection with the sale of property held in the name of an account in ~~such~~ *the* fund.

~~(8) For transfer to the General Fund as provided in subdivision (c).~~

~~(9)~~

(8) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him or her under the provisions of this chapter.

~~(c) At the end of each month, or more often if he or she deems it advisable, the Controller shall transfer all money in the Abandoned Property Account in excess of fifty thousand dollars ($50,000) to the General Fund. Before making this transfer, the Controller shall record the name and last known address of each person appearing from the holders' report to be entitled to the escheated property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation. The record shall be available for public inspection at all reasonable business hours.~~

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