

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:

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:
3 1513. (a) Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:
6 (1) (A) Except as provided in paragraph (6), any demand,
7 savings, or matured time deposit, or account subject to a negotiable
8 order of withdrawal, made with a banking organization, together
9 with any interest or dividends thereon, excluding, from demand
10 deposits and accounts subject to a negotiable order of withdrawal
11 only, any reasonable service charges that may lawfully be withheld
12 and that do not (where made in this state) exceed those set forth
13 in schedules filed by the banking organization from time to time
14 with the Controller, when the owner, for more than ~~three~~ five years,
15 has not done any of the following:

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

4 (ii) Corresponded electronically or in writing with the banking
5 organization concerning the deposit.

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

9 (B) A deposit or account shall not, however, escheat to the state
10 if, during the previous ~~three~~ *five* years, the owner has owned
11 another deposit or account with the banking organization or the
12 owner has owned an individual retirement account or funds held
13 by the banking organization under a retirement plan for
14 self-employed individuals or a similar account or plan established
15 pursuant to the internal revenue laws of the United States or the
16 laws of this state, as described in paragraph (6), and, with respect
17 to that deposit, account, or plan, the owner has done any of the
18 acts described in clauses (i), (ii) or (iii) of subparagraph (A), and
19 the banking organization has communicated electronically or in
20 writing with the owner, at the address ~~to which~~ *where*
21 communications regarding that deposit, account, or plan are
22 regularly sent, with regard to the deposit, account, or plan that
23 would otherwise escheat under subparagraph (A). For purposes of
24 this subparagraph, “communications” includes account statements
25 or statements required under the internal revenue laws of the United
26 States.

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

30 (2) (A) Except as provided in paragraph (6), any demand,
31 savings, or matured time deposit, or matured investment certificate,
32 or account subject to a negotiable order of withdrawal, or other
33 interest in a financial organization or any deposit made therewith,
34 and any interest or dividends thereon, excluding, from demand
35 deposits and accounts subject to a negotiable order of withdrawal
36 only, any reasonable service charges that may lawfully be withheld
37 and that do not (where made in this state) exceed those set forth
38 in schedules filed by the financial organization from time to time
39 with the Controller, when the owner, for more than ~~three~~ *five* years,
40 has not done any of the following:

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

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

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

9 (B) A deposit or account shall not, however, escheat to the state
10 if, during the previous ~~three~~ *five* years, the owner has owned
11 another deposit or account with the financial organization or the
12 owner has owned an individual retirement account or funds held
13 by the financial organization under a retirement plan for
14 self-employed individuals or a similar account or plan established
15 pursuant to the internal revenue laws of the United States or the
16 laws of this state, as described in paragraph (6), and, with respect
17 to that deposit, account, or plan, the owner has done any of the
18 acts described in clauses (i), (ii) or (iii) of subparagraph (A), and
19 the financial organization has communicated electronically or in
20 writing with the owner, at the address ~~to which~~ *where*
21 communications regarding that deposit, account, or plan are
22 regularly sent, with regard to the deposit, account, or plan that
23 would otherwise escheat under subparagraph (A). For purposes of
24 this subparagraph, “communications” includes account statements
25 or statements required under the internal revenue laws of the United
26 States.

27 (C) No financial organization may discontinue any interest or
28 dividends on any funds paid toward purchase of shares or other
29 interest, or on any deposit, because of the inactivity contemplated
30 by this section.

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

37 (4) Any sum payable on any other written instrument ~~on which~~
38 *where* a banking or financial organization is directly liable,
39 including, by way of illustration but not of limitation, any draft,
40 cashier’s check, teller’s check, or certified check, that has been

1 outstanding for more than ~~three~~ *five* years from the date it was
2 payable, or from the date of its issuance if payable on demand,
3 when the owner, for more than ~~three~~ *five* years, has not
4 corresponded electronically or in writing with the banking or
5 financial organization concerning it, or otherwise indicated an
6 interest as evidenced by a memorandum or other record on file
7 with the banking or financial organization.

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

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

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

25 (C) It does not begin to accrue until three years after the
26 purchase date, and it stops accruing after the value of the money
27 order escheats.

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

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

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

38 (i) Increased or decreased the principal.

39 (ii) Accepted payment of principal or income.

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

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

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

23 (7) Any wages or salaries that have remained unclaimed by the
24 owner for more than ~~one year~~ *five years* after the wages or salaries
25 become payable.

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

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

31 1513.5. (a) Except as provided in subdivision (c), if the holder
32 has in its records an address for the apparent owner, ~~which~~ *and*
33 the holder’s records do not disclose *it* to be inaccurate, every
34 banking or financial organization shall make reasonable efforts to
35 notify any owner by mail or, if the owner has consented to
36 electronic notice, electronically, that the owner’s deposit, account,
37 shares, or other interest in the banking or financial organization
38 will escheat to the state pursuant to clause (i), (ii), or (iii) of
39 subparagraph (A) of paragraphs (1), (2), or (6) of subdivision (a)
40 of Section 1513. The holder shall give notice either:

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

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

8 (b) The notice required by this section shall specify the time
9 that the deposit, account, shares, or other interest will escheat and
10 the effects of escheat, including the necessity for filing a claim for
11 the return of the deposit, account, shares, or other interest. The
12 face of the notice shall contain a heading at the top that reads as
13 follows: "THE STATE OF CALIFORNIA REQUIRES US TO
14 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
15 BE TRANSFERRED TO THE STATE IF YOU DO NOT
16 CONTACT US," or substantially similar language. The notice
17 required by this section shall, in boldface type or in a font a
18 minimum of two points larger than the rest of the notice, exclusive
19 of the heading, (1) specify that since the date of last activity, or
20 for the last two years, there has been no owner activity on the
21 deposit, account, shares, or other interest; (2) identify the deposit,
22 account, shares, or other interest by number or identifier, ~~which~~
23 *that* need not exceed four digits; (3) indicate that the deposit,
24 account, shares, or other interest is in danger of escheating to the
25 state; and (4) specify that the California Unclaimed Property Law
26 requires banks, banking organizations, and financial organizations
27 to transfer funds of a deposit, account, shares, or other interest if
28 it has been inactive for ~~three~~ *five* years. It shall also include a form,
29 as prescribed by the Controller, by which the owner may declare
30 an intention to maintain the deposit, account, shares, or other
31 interest. If that form is filled out, signed by the owner, and returned
32 to the banking or financial organization, it shall satisfy the
33 requirement of clause (iii) of subparagraph (A) of paragraph (1),
34 clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of
35 subparagraph (A) of paragraph (6) of subdivision (a) of Section
36 1513. In lieu of returning the form, the banking or financial
37 organization may provide a telephone number or other electronic
38 means to enable the owner to contact that organization. The contact,
39 as evidenced by a memorandum or other record on file with the
40 banking or financial organization, shall satisfy the requirement of

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

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

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

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

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

28 1514. (a) The contents of, or the proceeds of sale of the
29 contents of, any safe deposit box or any other safekeeping
30 repository, held in this state by a business association, escheat to
31 this state if unclaimed by the owner for more than ~~three~~ five years
32 from the date ~~on which~~ when the lease or rental period on the box
33 or other repository expired, or from the date of termination of any
34 agreement because ~~of which~~ the box or other repository was
35 furnished to the owner without cost, whichever last occurs.

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

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

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

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

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

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

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

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

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

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

21 (f) The contents of, or the proceeds of sale of the contents of, a
22 safe deposit box or other safekeeping repository shall not escheat
23 to the state if, as of June 30 or the fiscal yearend next preceding
24 the date ~~on which~~ *when* a report is required to be filed under
25 Section 1530, the owner has owned, with a financial organization
26 providing the safe deposit box or other safekeeping repository,
27 any demand, savings, or matured time deposit, or matured
28 investment certificate, or account subject to a negotiable order of
29 withdrawal, or other interest in a financial organization or any
30 deposit made therewith, and any interest or dividends thereon,
31 ~~which~~ *that* has not escheated under Section 1513 and is not
32 reportable under subdivision (d) of Section 1530.

33 (g) The contents of, or the proceeds of sale of the contents of,
34 a safe deposit box or other safekeeping repository shall not escheat
35 to the state if, as of June 30 or the fiscal yearend next preceding
36 the date ~~on which~~ *when* a report is required to be filed under
37 Section 1530, the owner has owned, with a banking or financial
38 organization providing the safe deposit box or other safekeeping
39 repository, any funds in an individual retirement account or under
40 a retirement plan for self-employed individuals or similar account

1 or plan pursuant to the internal revenue laws of the United States
2 or the income tax laws of this state, ~~which~~ *that* has not escheated
3 under Section 1513 and is not reportable under subdivision (d) of
4 Section 1530.

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

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

27 (j) A business association may directly escheat the contents of
28 a safe deposit box or other safekeeping repository without
29 exercising its rights under Article 2 (commencing with Section
30 1660) of Chapter 13 of Division 1 of the Financial Code.

31 SEC. 4. Section 1515 of the Code of Civil Procedure is
32 amended to read:

33 1515. (a) Subject to Section 1510, funds held or owing by a
34 life insurance corporation under any life or endowment insurance
35 policy or annuity contract ~~which~~ *that* has matured or terminated
36 escheat to this state if unclaimed and unpaid for more than ~~three~~
37 *five* years after the funds became due and payable as established
38 from the records of the corporation.

39 (b) If a person other than the insured or annuitant is entitled to
40 the funds and no address of that person is known to the corporation

1 or if it is not definite and certain from the records of the corporation
2 what person is entitled to the funds, it is presumed that the last
3 known address of the person entitled to the funds is the same as
4 the last known address of the insured or annuitant according to the
5 records of the corporation. This presumption is a presumption
6 affecting the burden of proof.

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

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

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

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

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

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

26 1515.5. Property distributable in the course of a demutualization
27 or related reorganization of an insurance company is deemed
28 abandoned as follows:

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

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

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

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

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

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

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

14 SEC. 6. Section 1516 of the Code of Civil Procedure is
15 amended to read:

16 1516. (a) Subject to Section 1510, any dividend, profit,
17 distribution, interest, payment on principal, or other sum held or
18 owing by a business association for or to its shareholder, certificate
19 holder, member, bondholder, or other security holder, or a
20 participating patron of a cooperative, who has not claimed it, or
21 corresponded in writing with the business association concerning
22 it, within ~~three~~ five years after the date prescribed for payment or
23 delivery, escheats to this state.

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

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

39 (d) If the business association has in its records an address for
40 the apparent owner, ~~which~~ that the business association's records

1 do not disclose to be inaccurate, with respect to any interest that
2 may escheat pursuant to subdivision (b), the business association
3 shall make reasonable efforts to notify the owner by mail or, if the
4 owner has consented to electronic notice, electronically, that the
5 owner's interest in the business association will escheat to the
6 state. The notice shall be given not less than 6 nor more than 12
7 months before the time the interest in the business association
8 becomes reportable to the Controller in accordance with this
9 chapter. The face of the notice shall contain a heading at the top
10 that reads as follows: "THE STATE OF CALIFORNIA
11 REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED
12 PROPERTY MAY BE TRANSFERRED TO THE STATE IF
13 YOU DO NOT CONTACT US," or substantially similar language.
14 The notice required by this subdivision shall specify the time that
15 the interest will escheat and the effects of escheat, including the
16 necessity for filing a claim for the return of the interest. The notice
17 required by this section shall, in boldface type or in a font a
18 minimum of two points larger than the rest of the notice, exclusive
19 of the heading, (1) specify that since the date of last activity, or
20 for the last two years, there has been no customer activity on the
21 deposit, account, shares, or other interest; (2) identify the deposit,
22 account, shares, or other interest by number or identifier, ~~which~~
23 *that* need not exceed four digits; (3) indicate that the deposit,
24 account, shares, or other interest is in danger of escheating to the
25 state; and (4) specify that the California Unclaimed Property Law
26 requires banks, banking organizations, and financial organizations
27 to transfer funds of a deposit, account, shares, or other interest if
28 it has been inactive for ~~three~~ *five* years. It shall also include a form,
29 as prescribed by the Controller, by which the owner may confirm
30 the owner's current address. If that form is filled out, signed by
31 the owner, and returned to the holder, it shall be deemed that the
32 business association knows the location of the owner. In lieu of
33 returning the form, the business association may provide a
34 telephone number or other electronic means to enable the owner
35 to contact the association. With that contact, as evidenced by a
36 memorandum or other record on file with the business association,
37 the business association shall be deemed to know the location of
38 the owner. The business association may impose a service charge
39 on the deposit, account, shares, or other interest for this notice and
40 form in an amount not to exceed the administrative cost of mailing

1 or electronically sending the notice and form, and in no case to
2 exceed two dollars (\$2).

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

8 SEC. 7. Section 1517 of the Code of Civil Procedure is
9 amended to read:

10 1517. (a) All property distributable in the course of a voluntary
11 or involuntary dissolution or liquidation of a business association
12 that is unclaimed by the owner within ~~six months~~ *five years* after
13 the date of final distribution or liquidation escheats to this state.

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

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

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

28 1518. (a) All tangible personal property located in this state
29 and, subject to Section 1510, all intangible personal property, and
30 the income or increment on ~~such~~ *that* tangible or intangible
31 property, held in a fiduciary capacity for the benefit of another
32 person escheats to this state if after it becomes payable or
33 distributable, the owner has not, within a period of ~~three~~ *five* years,
34 increased or decreased the principal, accepted payment of principal
35 or income, corresponded in writing concerning the property, or
36 otherwise indicated an interest as evidenced by a memorandum or
37 other record on file with the fiduciary.

38 (b) Funds in an individual retirement account or a retirement
39 plan for self-employed individuals or similar account or plan
40 established pursuant to the internal revenue laws of the United

1 States or of this state are not payable or distributable within the
2 meaning of subdivision (a) unless, under the terms of the account
3 or plan, distribution of all or part of the funds would then be
4 mandatory.

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

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

18 1519. All tangible personal property located in this state, and,
19 subject to Section 1510, all intangible personal property, held for
20 the owner by any government or governmental subdivision or
21 agency, that has remained unclaimed by the owner for more than
22 ~~three~~ *five* years escheats to this state.

23 SEC. 10. Section 1520 of the Code of Civil Procedure is
24 amended to read:

25 1520. (a) All tangible personal property located in this state
26 and, subject to Section 1510, all intangible personal property,
27 except property of the classes mentioned in Sections 1511, 1513,
28 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
29 any income or increment thereon and deducting any lawful charges,
30 that is held or owing in the ordinary course of the holder's business
31 and has remained unclaimed by the owner for more than ~~three~~ *five*
32 years after it became payable or distributable escheats to this state.

33 (b) Except as provided in subdivision (a) of Section 1513.5,
34 subdivision (b) of Section 1514, and subdivision (d) of Section
35 1516, if the holder has in its records an address for the apparent
36 owner of property valued at fifty dollars (\$50) or more, which the
37 holder's records do not disclose to be inaccurate, the holder shall
38 make reasonable efforts to notify the owner by mail or, if the owner
39 has consented to electronic notice, electronically, that the owner's
40 property will escheat to the state pursuant to this chapter. The

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

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

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

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

11 1521. (a) Except as provided in subdivision (b), and subject
12 to Section 1510, all employee benefit plan distributions and any
13 income or other increment thereon escheats to the state if the owner
14 has not, within ~~three~~ *five* years after it becomes payable or
15 distributable, accepted the distribution, corresponded in writing
16 concerning the distribution, or otherwise indicated an interest as
17 evidenced by a memorandum or other record on file with the
18 fiduciary of the trust or custodial fund or administrator of the plan
19 under which the trust or fund is established. As used in this section,
20 “fiduciary” means any person exercising any power, authority, or
21 responsibility of management or disposition with respect to any
22 money or other property of a retirement system or plan, and
23 “administrator” means the person specifically so designated by
24 the plan, trust agreement, contract, or other instrument under which
25 the retirement system or plan is operated, or if none is designated,
26 the employer.

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

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

1 SEC. 12. Section 1540 of the Code of Civil Procedure is
2 amended to read:

3 1540. (a) Any person, excluding another state, who claims an
4 interest in property paid or delivered to the Controller under this
5 chapter may file a claim to the property or to the net proceeds from
6 its sale. The claim shall be on a form prescribed by the Controller
7 and shall be verified by the claimant.

8 (b) The Controller shall consider each claim within 180 days
9 after it is filed and may hold a hearing and receive evidence. The
10 Controller shall give written notice to the claimant if he or she
11 denies the claim in whole or in part. The notice may be given by
12 mailing it to the address, if any, stated in the claim as the address
13 to which notices are to be sent. If no address is stated in the claim,
14 the notice may be mailed to the address, if any, of the claimant as
15 stated in the claim. No notice of denial need be given if the claim
16 fails to state either an address to which notices are to be sent or an
17 address of the claimant.

18 ~~(c) No interest shall be payable on any claim paid under this~~
19 ~~chapter.~~

20 *(c) (1) The Controller shall add interest at the rate of 5 percent*
21 *per year or the bond equivalent rate of 13-week United States*
22 *Treasury bills, whichever is lower, to the amount of any claim paid*
23 *to the owner under this section for the period the property was on*
24 *deposit in the Unclaimed Property Fund. No interest shall be*
25 *payable for any period prior to January 1, 1977. Any interest*
26 *required to be paid by the state pursuant to this section shall be*
27 *computed as simple interest, not as compound interest.*

28 *(2) For purposes of this section, the bond equivalent rate of*
29 *13-week United States Treasury bills shall be defined in*
30 *accordance with the following criteria:*

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

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

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

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

4 ~~(d)~~

5 (e) For the purposes of this section, “owner” means the person
6 who had legal right to the property prior to its escheat, his or her
7 heirs, his or her legal representative, or a public administrator
8 acting pursuant to the authority granted in Sections 7660 and 7661
9 of the Probate Code.

10 ~~(e)~~

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

14 SEC. 13. Section 1564 of the Code of Civil Procedure is
15 amended to read:

16 1564. (a) All money received under this chapter, including
17 the proceeds from the sale of property under Section 1563, shall
18 be deposited in the Unclaimed Property Fund in an account titled
19 “Abandoned Property.”

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

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

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

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

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

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

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

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

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

11 ~~(8) For transfer to the General Fund as provided in subdivision~~
12 ~~(e).~~

13 ~~(9)~~

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

18 ~~(c) At the end of each month, or more often if he or she deems~~
19 ~~it advisable, the Controller shall transfer all money in the~~
20 ~~Abandoned Property Account in excess of fifty thousand dollars~~
21 ~~(\$50,000) to the General Fund. Before making this transfer, the~~
22 ~~Controller shall record the name and last known address of each~~
23 ~~person appearing from the holders' report to be entitled to the~~
24 ~~escheated property and the name and last known address of each~~
25 ~~insured person or annuitant, and with respect to each policy or~~
26 ~~contract listed in the report of a life insurance corporation, its~~
27 ~~number, and the name of the corporation. The record shall be~~
28 ~~available for public inspection at all reasonable business hours.~~