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AB-2258 Unclaimed property. (2015-2016)

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Assembly Bill No. 2258

CHAPTER 463

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

[Approved by Governor September 22, 2016. Filed with Secretary of State September 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2258, Eggman. Unclaimed property.

Existing law prescribes the circumstances under which property held or owing by a business association escheats to the state. Existing law specifies that any demand, savings, or matured time deposit, or account subject to a negotiable order of withdrawal, made with a banking organization escheats to the state if the owner, for more than three years, has not increased or decreased the amount of the deposit. Existing law specifies that 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, escheats to the state when the owner, for more than three years, has not increased or decreased the amount of the funds or deposit.

This bill would require, commencing on or before January 1, 2018, for purposes of determining whether the above-described property escheats to the state, that a holder, as defined in existing law, regard specified transactions that are initiated electronically and are reflected in the books and records of a banking or financial organization as evidence of an increase or decrease in the amount of the funds or deposit in an account held by the banking or financial organization.

Vote: majority Appropriation: no Fiscal Committee: yes 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, if the owner, for more than three years, has not done any of the following:

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

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

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

(B) A deposit or account shall not, however, escheat to the state if, during the previous three years, the owner has owned another deposit or account with the banking organization or the owner has owned an individual retirement account or funds held by the banking organization under a retirement plan for self-employed individuals or a similar account or plan established pursuant to the internal revenue laws of the United States or the laws of this state, as described in paragraph (6), and, with respect to that deposit, account, or plan, the owner has done any of the acts described in clause (i), (ii), or (iii) of subparagraph (A), and the banking organization has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit, account, or plan are regularly sent, with regard to the deposit or account 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, if the owner, for more than three years, has not done any of the following:

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

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

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

(B) A deposit or account shall not, however, escheat to the state if, during the previous three years, the owner has owned another deposit or account with the financial organization or the owner has owned an individual retirement account or funds held by the financial organization under a retirement plan for self-employed individuals or a similar account or plan established pursuant to the internal revenue laws of the United States or the laws of this state, as described in paragraph (6), and, with respect to that deposit, account, or plan, the owner has done any of the acts described in clause (i), (ii), or (iii) of subparagraph (A), and the financial organization has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit, account, or plan are regularly sent, with regard to the deposit or account 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, if the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association.

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

(5) Any sum payable on a money order issued by a business association, including a banking or financial organization, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any reasonable service charges that may lawfully be withheld and that do not, when made in this state, exceed those set forth in schedules filed by the business association from time to time with the Controller, if 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, if the owner, for more than three years after the funds become payable or distributable, has not done any of the following:

(i) Increased or decreased the principal.

(ii) Accepted payment of principal or income.

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

(B) Funds held by a business association in an individual retirement account or under a retirement plan for self-employed individuals or a similar account or plan created pursuant to the internal revenue laws of the United States or the laws of this state shall not escheat to the state if, during the previous three years, the owner has owned another such account, plan, or any other deposit or account with the business association and, with respect to that deposit, account, or plan, the owner has done any of the acts described in clause (i), (ii), or (iii) of subparagraph (A), and the business association has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit, 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 either of the following is true:

(i) Under the terms of the account or plan, distribution of all or a part of the funds would then be mandatory.

(ii) For an account or plan not subject to mandatory distribution requirement under the internal revenue laws of the United States or the laws of this state, the owner has attained 70¹/₂ years of age.

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

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

(c) A holder shall, commencing on or before January 1, 2018, regard the following transactions that are initiated electronically and are reflected in the books and records of the banking or financial organization as evidence that an owner has increased or decreased the amount of the funds or deposit in an account, for purposes of paragraphs (1) and (2) of subdivision (a):

(1) A single or recurring debit transaction authorized by the owner.

(2) A single or recurring credit transaction authorized by the owner

(3) Recurring transactions authorized by the owner that represent payroll deposits or deductions.

(4) Recurring credits authorized by the owner or a responsible party that represent the deposit of any federal benefits, including social security benefits, veterans' benefits, and pension payments.