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AB-1637 Unclaimed Property Law. (2019-2020)

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Assembly Bill No. 1637

CHAPTER 320

An act to amend Section 1540 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 20, 2019. Filed with Secretary of State September 20, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1637, Smith. Unclaimed Property Law.

The Unclaimed Property Law provides that all tangible personal property located in this state, and, subject to specified conditions, 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 3 years escheats to the state. Under existing law, a person who claims to have been the owner, as defined, of property paid or delivered to the Controller under that law may file a claim to the property or to the net proceeds from its sale. Existing law requires to Controller to consider each claim, as specified, to determine if the claimant is the owner.

This bill would permit property reported to, and received by, the Controller in the name of a state or local agency, as defined, to be transferred by the Controller directly to that agency without the filing of a claim.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1540 of the Code of Civil Procedure is amended to read:

1540. (a) Any person, excluding another state, who claims to have been the owner, as defined in subdivision (d), of 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 to determine if the claimant is the owner, as defined in subdivision (d), and may hold a hearing and receive evidence. The Controller shall give written notice to the claimant if the Controller 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. A notice of denial need not 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) Interest shall not be payable on any claim paid under this chapter.

(d) Notwithstanding subdivision (g) of Section 1501, for purposes of filing a claim pursuant to this section, "owner" means the person who had legal right to the property before its escheat, the person's heirs or estate representative, the person's guardian or conservator, or a public administrator acting pursuant to the authority granted in Sections 7660 and 7661 of the Probate Code. An "owner" also means a nonprofit civic, charitable, or educational organization that granted a charter, sponsorship, or approval for the existence of the organization that had the legal right to the property before its escheat but that has dissolved or is no longer in existence, if the charter, sponsorship, approval, organization bylaws, or other governing documents provide that unclaimed or surplus property shall be conveyed to the granting organization upon dissolution or cessation to exist as a distinct legal entity. Only an owner, as defined in this subdivision, may file a claim with the Controller pursuant to this article.

(e) 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.

(f) Notwithstanding any other provision, property reported to, and received by, the Controller pursuant to this chapter in the name of a state agency, including the University of California and the California State University, or local agency, may be transferred by the Controller directly to the state or local agency without the filing of a claim. Property transferred pursuant to this subdivision is immune from suit pursuant to Section 1566 in the same manner as if the state or local agency had filed a claim to the property. For purposes of this subdivision, "local agency" means a city, county, city and county, or district.