

#26

1/3/67

Memorandum 67-3

Subject: Study 26 - Escheat

Attached is a revised Tentative Recommendation on this subject. We have included the various changes made at the last meeting and some changes suggested by the staff. In this memorandum, we note all the significant changes.

We have prepared a number of supplements to this memorandum so that various exhibits pertinent to a particular problem can be considered as a unit.

In the First Supplement to Memorandum 67-3, we set out the key provisions of the New York Law and the amount of revenue received from various sources under that law. We also set out the comparable information concerning California so far as that information is available. We suggest that this supplement be first discussed so that we can be sure that we are not omitting any source of possible revenue and so that we will have in mind the amount of revenue received from various sources in New York and California. The office of the State Controller has advised us that all sources listed in New York materials are covered under the California law except abandoned funds of utilities and travelers checks of American Express.

BASIC POLICY MATTERS

Utility Exemption

This problem is discussed in the Second Supplement to Memorandum 67-3.

Permanent Escheat

A number of commentators suggested the elimination of cur provisions for permanent escheat. The draft legislation authorizes permanent escheat

(approximately five years after the year in which the property is paid or delivered to the State Controller). See Sections 1550, 1551 (pages 61-65).

American Express (Exhibit I, Fourth Supplement) points out that travelers checks are valid until used and have been so represented to the public. The letter points out that in New York payments on travelers checks issued in 1934 were still being made in 1965. The argument concerning the inconvenience of maintaining records for long periods of time is inapplicable to travelers checks, money orders, and similar instruments because possession is conclusive proof of ownership. No record of the original owner is kept. The possessor of the instrument may obtain payment by presenting the instrument.

The Life Insurance Association of America (Exhibit I, Third Supplement) and the Atchison, Topeka and Santa Fe Railroad Company (Exhibit III, Second Supplement) also object to the permanent escheat of abandoned property.

The American Express objection could be met by revising Sections 1550 and 1551 (which provide for permanent escheat) to exclude property escheated under (c) and (d) of Section 1551. But in view of the other objections, we recommend that the provisions for permanent escheat be deleted or that the period for permanent escheat be substantially increased--to 50 years.

Travelers Checks

This problem is discussed in the Fourth Supplement to Memorandum 67-3.

PRELIMINARY PORTION OF RECOMMENDATION

We have revised the preliminary portion of the recommendation in accordance with suggestions received from several commissioners. We plan to revise this further to point out the other major changes we propose in existing law as soon as those changes have been determined by the Commission.

COMMENTS ON INDIVIDUAL SECTIONS

Section 1300 (pages 11-13)

If the provisions on permanent escheat are deleted from the draft, consideration might be given to not amending this section and to including subdivision (g) in Section 1501 (page 16).

We have made the following revisions in this section:

(1) We have inserted the language "title to property the whereabouts of whose owner is unknown or whose owner is unknown" in accordance with a decision made at the last meeting.

(2) We have restored the language "pursuant to a proceeding of escheat as provided by Chapter 5" in subdivision (d) to recognize the administrative proceeding for escheat of small amounts. This was inadvertently deleted in the prior draft.

Section 1500 (page 15)

We have deleted the second sentence of this section and compiled it without change as subdivision (c) of Section 1502.

Section 1501 (pages 16-18)

We have revised subdivisions (g) and (i) in accordance with the decisions made at the last meeting.

Section 1502 (pages 19-20)

We have collected in this section various provisions concerning the application of the chapter that formerly were scattered throughout the chapter. The only change from previously approved language is subdivision (b) which is discussed in the Second Supplement to this memorandum.

Section 1510 (pages 22-24)

This section is the same as previously approved except we have added

two presumptions to subdivision (a). These presumptions are discussed in the Fourth Supplement to this memorandum.

Sections 1511 and 1512 (pages 25-28)

Previously approved.

Repeal of Section 1503 (page 29)

Previously approved.

Section 1513 (pages 30-31)

This section has been revised to carry out decisions made at the last meeting. None of the language in this section should be underscored.

Subdivision (b) has not been approved. The objection to subdivision (b) that has been expressed at various meetings is that Texas v. New Jersey forbids this state from deeming any last address to be other than it actually is. Since in the case of an unidentified owner there is no last known address on the books of the corporation, the argument is that this property escheats to the state of incorporation under Texas v. New Jersey and this state cannot deem otherwise. The counter argument is that subdivision (b) deals with a situation not covered by the Texas v. New Jersey rules and provides a reasonable solution to the problem. See the comment to the section for further explanation.

Section 1514 (pages 32-33)

Previously approved.

Repeal of Section 1505 (page 34)

Previously approved.

Section 1515 (page 35)

Previously approved.

Section 1516 (pages 36-37)

Subdivision (a) has been revised in an effort to make it clear that income distributable by a fiduciary escheats seven years after it becomes payable or distributable if not claimed within that time and principal held by a fiduciary also escheats seven years after it becomes payable or distributable if not claimed within that time. Principal and income are treated independently of each other. The State Controller's office has informed us that this is the administrative interpretation of this paragraph.

Subdivision (b) has been revised to state more clearly what was meant by the previous language. The State Controller's office has advised us that the previous language was intended to accomplish what we think our language states.

Sections 1517, 1518, Repeal of Section 1509 (pages 38-40)

Previously approved.

Section 1530 (pages 42-45)

Subdivision (b)(1) has been revised to delete the requirement that the owner of travelers checks and money orders be reported. This is discussed in the Fourth Supplement to this memorandum.

Paragraphs (3) and (4) of subdivision (b) have been revised so that paragraph (3) pertains to tangible property and paragraph (4) pertains to intangible property. This is in accord with the Commission's direction at a previous meeting. Subdivision (b) has also been revised to require reporting on a form prescribed or approved by the Controller. The verification requirement that formerly appeared in subdivision (b) has been moved to subdivision (e).

Subdivision (b)(2) has been revised to substitute "person appearing to be the owner" for "insured, annuitant, or beneficiary" which formerly appeared in the draft. This conforms to the change made in Section 1513 (page 30).

Section 1530 has also been revised to require the report to state where the Controller can take delivery of tangibles. This conforms to the change made in Section 1532 which relieves holders from the cost of shipping tangibles to the Controller.

Section 1531 (pages 46-49)

A technical change has been made in the introductory portion of subdivision (b): The word "unclaimed" has been substituted for "abandoned."

Subdivision (g) has been added. This subdivision is discussed in the Fourth Supplement to this memorandum.

Section 1532 (pages 50-51)

This section has been revised to relieve holders from the cost of shipping tangibles to the Controller. (Note also that Section 1530 has been revised to require the report to state where the Controller can take delivery of tangibles.)

The section has also been revised to add subdivision (c) to deal with travelers checks and money orders. This subdivision is discussed in the Fourth Supplement to this memorandum.

Former Section 1533

This section, which dealt with reports of property that was escheatable to another state, has been deleted in accordance with decisions made at the last meeting.

Section 1533 (page 52)

This section was formerly Section 1534. It has been renumbered but no changes were made.

Section 1540 (page 54)

Subdivision (b) has been revised as directed by the Commission to eliminate the requirement of formal findings. The language that has been substituted is taken largely from the governmental liability act (Government Code Section 911.8).

The second sentence of subdivision (a) has been revised to delete "personally" which formerly appeared before "verified." As pointed out by a commissioner commenting on this sentence, the word "personally" added nothing to the sentence.

Repeal Sections 1518 and 1519 (pages 55-56)

Previously approved.

Section 1541 (page 57)

Section 1541 has been revised to reflect the decision made by the Commission that this section should speak of actions and not proceedings. The special time limits have been retained as well as the provision for nonjury trial.

Section 1542 (pages 58-59)

Subdivision (b) has been revised to eliminate the need for formal findings.

Section 1550 (pages 61-63)

The word "Unclaimed" is substituted for "Abandoned" in the first line on page 62.

Section 1551 (pages 64-65)

Section 1551 has been revised to reflect the decision of the Commission that the notice should be published after five years and the property should permanently escheat one year after the completion of the publication period.

Sections 1560 and 1561 (pages 67-68)

Subdivisions (b) and (c) of Section 1560, which were deleted in the prior draft, have been restored. See the discussion in the Fourth Supplement to this memorandum.

When the Commission considered Section 1560, it directed the staff to revise it to require the state to save harmless any holder who paid money to the state pursuant to this chapter. It appeared easier from a drafting standpoint to amend Section 1561 to include this provision, and Section 1561 has been revised to so require. As the comment to Section 1561 points out, the save harmless requirement applies only if the property is paid to the state in accordance with this chapter. If the holder erroneously reports property that has not escheated, the save harmless requirement does not apply. We have not included a specific provision requiring refund of erroneously made payments. We have relied on the existing provision of Section 1564, paragraph (2) of subdivision (b), to authorize such refunds.

Sections 1562, 1563, 1564, 1565, 1566 (pages 69-74)

Previously approved.

Section 1570 (page 76)

In accordance with the Commission's instructions, we have added a provision that a barred claim is not revived merely because the holder has paid the obligation to the Controller.

Section 1571, Repeal Section 1523, Section 1572 (pages 77-80)

Previously approved.

Section 1573 (pages 81-82)

This section has been revised in accordance with the decisions made at the last meeting.

Sections 1574, 1575 (pages 83-84)

Previously approved.

Section 1576 (page 85)

Is the penalty provided by this section adequate? New York provides the following penalty for failure to report or file:

1412. Any person failing to make any report or to file any affidavit required by this chapter shall forfeit to the people of the state the sum of one hundred dollars for each day such report or affidavit shall be delayed or withheld, except that the State Controller may extend the time for making any such report or filing any such affidavit and may waive the payment of any penalty or part thereof provided for in this section.

This is a much more effective penalty than the one provided by Section 1576.

New York also provides a penalty for fraudulent returns:

1413. The making of a willful false oath in any report required under the provisions of this chapter shall be perjury and punishable as such according to law.

We suggest that the substance of Section 1412 be substituted for Section 1576.

Section 1580 (page 87)

This section has been revised in accordance with the decisions made at the last meeting.

Section 1581 (page 88)

This is a new section that has been added to deal with the special problem of travelers checks and money orders. See the discussion in the Fourth Supplement to this memorandum.

Section 1582, Repeal Civil Code Section 3081 (pages 89-90)

Previously approved.

Section 1604 (page 91)

The Commission instructed the staff to look at Sections 1600 et seq. to determine what revisions might be necessary to make the Texas v. New Jersey escheat rules applicable to our asserted escheat claims against property held by the United States. The only revision that appeared to be necessary is the proposed revision to Section 1604. Section 1604 now claims only property whose owner's last known address was in California. We have revised it to claim intangible property where the last known address was in California and tangible property acquired by the federal government in California. We have not included a provision in this section for the escheat of property where the last known address of the owner is in a state that does not provide for escheat. The section as drafted would leave such property in the federal government's hands. Should this state also assert a claim to that property? Should this state also assert a claim to intangible property acquired in California where the owner's last known address was in a foreign nation?

Amended Section 1614 (page 93)

Previously approved.

Savings Clause (page 94)

Previously approved.

Section 1620 (pages 95-99)

Previously approved. The language proposed to enact the compact is similar to that which has been used to approve other compacts. See, e.g., Penal Code Section 1389.

Escheat of Decedent's Property (pages 100-109)

No changes from previous draft.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

Revised January 1, 1967

STATE OF CALIFORNIA
CALIFORNIA LAW
REVISION COMMISSION

TENTATIVE RECOMMENDATION

relating to

ESCHEAT

January 1, 1967

California Law Revision Commission
School of Law
Stanford University
Stanford, California

WARNING: This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be considered when the Commission determines what recommendation it will make to the California Legislature.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

This tentative recommendation includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were enacted. They are cast in this form because their primary purpose is to undertake to explain the law as it would exist (if enacted) to those who will have occasion to use it after it is in effect.

TENTATIVE RECOMMENDATION

relating to

ESCHEAT

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RECOMMENDATION
of the
CALIFORNIA LAW REVISION COMMISSION
relating to
ESCHEAT
INTRODUCTION

Although the ancient concept of escheat that existed at common law was somewhat different, escheat is now considered generally to be the right of the government to claim property that has no owner. Note, 61 COLUM. L. REV. 1319 (1961). Under this modern concept of escheat, there are two classes of property that are usually subjected to a state's escheat claims. First, many states claim by escheat property that has been abandoned by its owner. Second, virtually all states claim by escheat the property that belonged to a person who died without heirs. California's escheat statutes have provided for the escheat of all property in the second category and for the escheat of certain classes of property in the first category. Recent decisions by the courts, however, have rendered the existing California statutes inadequate to deal with the problems that exist in this field. The statutes claim escheat rights that this state cannot lawfully assert, and they do not provide for the assertion of escheat rights that the state is entitled to assert.

ESCHEAT OF UNCLAIMED PROPERTY

Background

In 1959 the Uniform Disposition of Unclaimed Property Act was enacted in California in a revised form. See Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. The California statute provides a comprehensive scheme for the reporting to the State Controller and the subsequent delivery of various kinds of unclaimed personal property.

It replaced a less comprehensive scheme for the escheat of various kinds of personal property.

For the most part, the California statute applies to intangible property such as wages, bank deposits, dividends, and corporate shares. The statute also applies, however, to some forms of tangible personal property, such as that found in safety deposit boxes. It provides generally that if the owner of such property has failed to claim it for a specified period of time, the holder¹ is required to report this fact to the State Controller. Subsequently, after due notice, the property is transferred to the custody of the State Controller who then holds the property subject to any claim the true owner might make. The property subject to the statute is limited to that held or owed by persons doing business in this state or otherwise subject to the jurisdiction of this state.

After the enactment of the California statute, the United States Supreme Court decided Texas v. New Jersey, 379 U.S. 674 (1965) in which it held that only one state has power to escheat intangible personal property even though the holder of the property may be subject to the jurisdiction of more than one state.

In determining which state can escheat such property, the court rejected a contention that the right to escheat should be based upon the state's jurisdiction over the holder of the property. Instead, the court held that: (1) the state of the last known address of the owner as shown on the books and records of the holder may escheat intangible property and (2) if the books and records do not reflect an address of the owner, such property may be escheated by the state where the holder is domiciled. In cases falling in the second category, if another state proves that the last known address

¹"Holder" will be used throughout this recommendation to refer to the debtor or obligor of intangible property because that is the defined term used in the Uniform Act. Technically, the term is somewhat inaccurate because intangible property consists of debts and obligations and, thus, cannot be "held" as can tangible property.

of the owner was actually within its borders, that state may escheat the property and recover it from the holder or from the state that first escheated it. If the state of the last known address of the owner as shown by the records of the holder does not provide for the escheat of abandoned property, the state where the holder is domiciled may escheat the property subject to the claim of the state of last known address if and when its law makes provision for the escheat of such property. These rules are inconsistent with the provisions of the California statute, which are based upon California's jurisdiction over the holder.

Recommendations

The Commission makes the following recommendations concerning the escheat of unclaimed property:

1. The California unclaimed property statute should be brought into harmony with Texas v. New Jersey. The property subject to escheat under the present California statute is that held by or owned by persons doing business in this state or otherwise subject to the jurisdiction of this state. Under Texas v. New Jersey, however, California has no right to escheat much of the abandoned property that is held by holders who are subject to its jurisdiction. On the other hand, under Texas v. New Jersey California has the right to escheat abandoned property in the hands of holders who are not subject to its jurisdiction, but the existing statute does not provide for the escheat of such property.

The amount that California will forfeit if it fails to revise its law may well be significant. California's revenue under its existing law has averaged about \$700,000 per year. New York, the only state of comparable size, has received an average income from its escheat law of over \$11,500,000

per year. See West Virginia Joint Committee on Government and Finance, Memorandum from Legislative Services Re: HCR 30 (1965) Escheat Property (September 27, 1965). The potential income from the escheat of abandoned property is great; but the potential cannot be realized for so long as California's escheat laws do not provide for the escheat of substantial amounts of property that California has the power to escheat under the Supreme Court's decisions.

2. Abandoned property should permanently escheat after it has been held by the state for a reasonable period of time and after proper notice and opportunity to claim the property has been given to the owner. The existing California statute superseded statutes that provided for the permanent escheat of abandoned property. The superseded statutes provided that after a requisite period of time and due notice to the owner, the title to the abandoned property vested absolutely in the state and the owner's claim was forever barred. The existing statute does not provide for the permanent escheat of property delivered to the State Controller under its terms. As a result, since the owner or his descendants or successors have a perpetual right to claim the property, the Controller may never close his books upon such property.

3. Other revisions of the California unclaimed property statute should be made. Although most of the revisions of the California unclaimed property statute are needed to conform it to Texas v. New Jersey or to provide provisions for permanent escheat, a number of clarifying changes are recommended and a few changes are recommended to improve the administration of the statute. The Comments to the recommended legislation indicate the recommended changes and the reasons why the changes are needed.

4. California should join in the Unclaimed Property Compact. Since the decision in Texas v. New Jersey, the National Association of Attorneys General has proposed an unclaimed property compact that is designed to provide rules to govern those situations involving more than one state where application of the principles announced in Texas v. New Jersey does not necessarily result in a single escheat claimant. The compact is also designed to settle the status of property that was unclaimed prior to February 1, 1965, the date on which Texas v. New Jersey was decided, and to solve certain procedural problems created by that decision.

The Unclaimed Property Compact establishes a reasonably complete set of rules for determining entitlement to unclaimed property in cases of multiple state claims. It will bring order into the field and assist this state as well as other states that become signatories to the compact to secure unclaimed property to which they are entitled.

ESCHEAT OF PROPERTY UPON OWNER'S DEATH WITHOUT HEIRS

Background

Probate Code Section 231 provides that if a decedent leaves no one to take his estate or any portion thereof under the laws of this state, the same escheats to this state at the death of the decedent. In Estate of Nolan, 135 Cal. App.2d 16, 286 P.2d 899 (1955), the court held that the provisions of Section 231 are subject to the provision of Section 946 of the Civil Code that:

If there is no law to the contrary, in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile.

Applying Section 946, the court held that a California bank account owned by a Montana domiciliary who died without heirs escheated to the state of Montana and not to the state of California. The holding of the court was broad enough to apply to all personal property, including tangible personal property located in California.

Other states have not been as solicitous of California's escheat claims as the California court was of Montana's escheat claim in the Nolan case. In In re Rapoport's Estate, 317 Mich. 291, 26 N.W.2d 777 (1947), and in In re Menshefrend's Estate, 283 App. Div. 463, 128 N.Y.S.2d 738 (1954), the courts held that bank accounts located in Michigan and New York belonging to California domiciliaries who died without heirs escheated to Michigan and New York respectively, and not to California. Thus, under these decisions, California surrenders whatever right it has to escheat personal property located within California or in the hands of a holder located in California when the owner dies domiciled elsewhere, and California is powerless to claim the escheat of property located elsewhere that belongs to California domiciliaries who die without heirs.

The effect of the holding in Texas v. New Jersey, 379 U.S. 674 (1965), on the results reached by the California, Michigan, and New York courts is uncertain. Texas v. New Jersey involved intangible personal property which was unclaimed. The owner of the property could not be located but he might still have been alive. The California, Michigan, and New York courts, on the other hand, were concerned with property belonging to a known decedent. In each case, the administrator of that decedent was asserting a claim to

the property. There was no dispute as to the domicile of the decedent, although the last known address of the decedent shown on the records of the holder may well have differed from his last actual address. Accordingly, where property owned by a known decedent is involved, it is possible that the United States Supreme Court may not require distribution of the property to the state of the last known address of the decedent according to the books and records of the holder where that last known address is clearly neither the domicile nor the last address of the decedent. It is possible, too, that there may be other departures from the Texas v. New Jersey rules occasioned by the circumstance that, where a decedent's property is involved, the facts concerning the last owner are reasonably ascertainable.

Recommendations

Since the United States Supreme Court has not as yet formulated rules for the escheat of property of persons dying without heirs that are binding on all of the states, the Commission recommends that the California law be revised so that this state no longer loses the property of both domiciliary and nondomiciliary decedents in every case where conflicting escheat claims are asserted. Specifically, legislation should be enacted to effectuate the following principles:

1. Real property located in this state should escheat to this state when the owner dies without heirs. This is the existing law in California and in most other jurisdictions.

2. Tangible personal property that was customarily kept in this state at the time of the owner's death should escheat to this state whether or not the decedent was a domiciliary of California. Although Estate of Nolan, 135 Cal. App.2d 16, 286 P.2d 899 (1955), involved only intangible property--

a bank account--the basis of the decision was that all personal property escheats to the jurisdiction where the decedent owner was domiciled at his death. However, if a nonresident decedent customarily kept property in this state--as for example personal property kept at a vacation cabin--this state should have the right to escheat the property, not the state of domicile, because this state provided the protection for the decedent's interest in the property during his lifetime.

3. Any tangible personal property being administered and distributed by a California probate court should escheat to this state unless the jurisdiction where the decedent customarily kept the property during his lifetime claims the property and establishes that it would recognize the escheat claim of California to similar property being administered in that jurisdiction which the decedent had customarily kept in California. This type of reciprocal provision will prevent this state from surrendering any tangible personal property to the escheat claim of another state if that state will not recognize California's claims under similar circumstances.

4. Intangible property--obligations owed to a decedent--should escheat to this state if the decedent was domiciled in this state at the time of his death. Intangible property has no location, and both the obligor and obligee may be subject to the jurisdiction of several states. As indicated in Texas v. New Jersey, 379 U.S. 674 (1965), several states may have a legitimate basis for claiming intangible property. Under existing California law, the state of the decedent's domicile has the right to escheat the decedent's property. The rule is sound and should be continued. That state has usually provided the decedent with protection for his personal and intangible interests and, therefore, should have the primary claim on his intangible assets.

5. If the decedent was not domiciled in California at his death, but left intangible assets subject to administration and distribution by a California probate court, such property should escheat to this state unless the jurisdiction where the decedent was domiciled claims the property and establishes that it would recognize the escheat claim of California to the intangible assets of a California domiciliary when those assets are administered and distributed in that jurisdiction. Under this type of reciprocal provision, California may still recognize escheat claims--such as that of Montana in Estate of Nolan, 135 Cal. App.2d 16, 286 P.2d 899 (1955)--made by the jurisdiction of a decedent's domicile, but California will no longer recognize any such claim if the jurisdiction of domicile would not recognize a California claim in a similar situation.

PROPOSED LEGISLATION

The Commission's recommendations would be effectuated by enactment of the following measures:

I. UNCLAIMED PROPERTY STATUTE

An act to amend Sections 1300, 1500, 1501, 1604, and 1614 of, to amend and renumber Sections 1502, 1504, 1506, 1507, 1508, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1520, 1521, 1522, 1524, 1525, 1526, and 1527 of, to amend the heading of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of, to add a new article heading immediately preceding Section 1500 of, to add Article 2 (commencing with Section 1510) to Chapter 7 of Title 10 of Part 3 of, to add Sections 1513 and 1515 to, to add a new article heading immediately preceding Section 1510 (renumbered Section 1530 by this act) of, to add Section 1534 to, to add Article 4 (commencing with Section 1540) to Chapter 7 of Title 10 of Part 3 of, to add Section 1542 to, to add Article 5 (commencing with Section 1550) to Chapter 7 of Title 10 of Part 3 of, to add a new article heading immediately preceding Section 1513 (renumbered Section 1560 by this act) of, to add Sections 1561 and 1566 to, to add a new article heading immediately preceding Section 1515 (renumbered Section 1570 by this act) of, to add Sections 1571, 1572, 1573, 1574, and 1575 to, to add a new article heading immediately preceding Section 1525 (renumbered Section 1580 by this act) of, to add Section 1581 to, and to repeal Sections 1503, 1505, 1509, 1518, 1519, and 1523 of, the Code of Civil Procedure and to repeal Section 3061 of the Civil Code, relating to unclaimed property.

The people of the State of California do enact as follows:

§ 1300 (amended)

SECTION 1. Section 1300 of the Code of Civil Procedure is amended to read:

1300. For the purposes of this title, the following definitions shall apply:

(a) "Property," unless specifically qualified, includes all classes of property, real, personal, and mixed.

(b) "Unclaimed property," unless specifically qualified, means all property (1) which is unclaimed, abandoned, ~~presumptively-abandoned,~~ escheated, permanently escheated, or distributed to the state, or (2) which, under any provision of law, will become unclaimed, abandoned, ~~presumptively-abandoned,~~ escheated, permanently escheated, or distributed to the state, or (3) to the possession of which the state is or will become entitled, if not claimed by the person or persons entitled thereto within the time allowed by law, whether or not there has been a judicial determination that such property is unclaimed, abandoned, ~~presumptively-abandoned,~~ escheated, permanently escheated, or distributed to the state ; ~~but, such term does not include property which is subject to escheat under the provisions of an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, providing for escheats in certain cases, prescribing procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith," approved by electors November 2, 1920, as amended .~~

(c) "~~Escheated,~~" "Escheat," unless specifically qualified, means "title-to-which-has-vested-in-the-State," the vesting in the state of title to property the whereabouts of whose owner is unknown or whose owner is unknown, whether by judicial determination or by operation of law, subject ,however, to the right of claimants to appear and claim the escheated property or any portion thereof ,as provided-in-this-title . When used in reference to the law of another state, "escheat" includes the transfer to the state of the right to the custody of such property.

(d) "~~Permanently-escheated~~" "Permanent escheat" means "title-to-which-has-vested-absolutely-in-the-State" the absolute vesting in the state of title to property the whereabouts of whose owner is unknown or whose owner is unknown, pursuant to judicial determination, pursuant to a proceeding of escheat as provided by Chapter 5, or pursuant to operation of law, after-the-period-has-elapsd-during-which-claimants may-appear-and-claim-the-property,-or-any-portion-thereof,-as-provided in-this-title and the barring of all claims to the property by the former owner thereof or his successors .

(e) "Controller" means the State Controller ,and .

(f) "Treasurer" means the State Treasurer.

(g) "Domicile," in the case of a corporation, refers to the place where the corporation is incorporated.

Comment. Section 1300 is amended to permit more convenient use of the defined terms in Chapter 7 (commencing with Section 1500) of this title.

The term "presumptively abandoned" has been deleted from subdivision (b) because it is no longer used, as it formerly was, in the substantive provisions relating to the escheat of abandoned property. The reference to the initiative act approved in 1920 has been deleted from subdivision (b) because it is obsolete. The act referred to was declared unconstitutional (Sei Fujii v.

State, 38 Cal.2d 718, 242 P.2d 617 (1952)) and has been repealed (Cal. Stats. 1955, Ch. 316, §§ 1-2, p. 767; Cal. Stats. 1957, p. cxxxvii).

The definitions in subdivisions (c) and (d) have been broadened to include escheats under the law of other states as well as escheats under the law of this state; for under Section 1510, the right of California to escheat certain intangible property depends on whether such property is subject to escheat under the law of another state. Under the laws of some states, the right to the custody of abandoned property vests in the state after the property has remained unclaimed for a requisite period of time, but the state never acquires the technical title to the property. The revised definition in subdivision (c) makes it clear that the acquiring of the right to custody is included in the term "escheat."

In Texas v. New Jersey, 379 U.S. 674 (1965), the Supreme Court referred to the state of incorporation as the corporation's domicile. Subdivision (g) codifies this rule to facilitate reference to it in Chapter 7 (commencing with Section 1500).

§ 1500

CHAPTER 7. UNCLAIMED PROPERTY LAW

SEC. 2. The heading of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure is amended to read:

CHAPTER 7 ~~UNIFORM-DISPOSITION-OF~~ UNCLAIMED PROPERTY ACT LAW

ARTICLE 1. SHORT TITLE; DEFINITIONS; APPLICATION

SEC. 3. A new article heading is added immediately preceding Section 1500 of the Code of Civil Procedure, in Chapter 7 of Title 10 of Part 3, to read:

ARTICLE 1. SHORT TITLE; DEFINITIONS; APPLICATION

§ 1500. Short title

SEC. 4. Section 1500 of the Code of Civil Procedure is amended to read:

1500. This chapter may be cited as the ~~Uniform-Disposition-of~~ Unclaimed Property Act Law . ~~None-of-the-provisions-of-this chapter-shall-apply-to-any-type-of-property-received-by-the-state under-the-provisions-of-Chapters-1-to-6,-inclusive,-of-this-title.~~

Comment. The short title of the chapter has been revised to reflect the fact that the chapter is no longer substantially the same as the Uniform Disposition of Unclaimed Property Act promulgated by the Commissioners on Uniform State Laws.

The second sentence of this section has been recodified as subdivision (c) of Section 1502.

§ 1501. Definitions

SEC. 5. Section 1501 of the Code of Civil Procedure is amended to read:

1501. As used in this chapter, unless the context otherwise requires:

(a) "Banking organization" means any national or state bank, trust company, banking company, savings bank, safe deposit company, ~~or a private banker engaged in business in this State~~ , or any similar organization .

(b) "Business association" means any private corporation ~~{other than a public corporation or utility}~~ , joint stock company, business trust, partnership, or any association for business purposes of two or more individuals , whether or not for profit, including, but not by way of limitation, a banking organization, financial organization, and insurance corporation .

(c) "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, ~~or investment company engaged in business in this State~~ , or any similar organization .

(d) "Government or governmental subdivision or agency" does not include the United States government or any officer, department, or agency thereof.

~~(d)~~ (e) "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

~~(e)~~(f) "Life insurance corporation" means any association or corporation transacting ~~within--this-State~~ the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, ~~allowments~~ and annuities.

§ 1501

~~(f)~~ (g) "Owner" means ~~a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his legal representative~~ with respect to property subject to this chapter means a person who is entitled to the property .

~~(g)~~ (h) "Person" means any individual, business association, government or ~~political~~ governmental subdivision or agency , ~~public authority, estate, trust,~~ two or more persons having a joint or common interest, or any other legal or commercial entity ~~other than any public corporation or utility~~ , whether such person is acting in his own right or in a representative or fiduciary capacity .

~~(h)~~ (i) "Utility" means any person who owns or operates ~~within this State,~~ for public use, any plant, equipment, property, franchise, or license for the transmission of communications , the transportation or passage of persons or property, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas , whose rates are fixed by the Public Utilities Commission of this state or by a similar public agency of another state or of the United States .

Comment. The definitions in Section 1501 have been revised to reflect the fact that the revised chapter applies to persons in other states who are holding property belonging to another. All of the definitions have been revised, therefore, to eliminate any requirement that such persons be engaged in business in California.

§ 1501

The listing of certain additional organizations in subdivision (a) is intended to be clarifying and to eliminate whatever doubts there may be that the mentioned organizations are covered by the subdivision.

The reference to "utility" has been deleted from subdivision (b) as unnecessary in light of subdivision (b) of Section 1502. The other revisions of subdivision (b) are nonsubstantive, clarifying changes.

The words "federal or state" have been added to subdivision (c) to eliminate any uncertainty concerning whether all such organizations are covered by the chapter.

Subdivision (d) excludes the federal government and its agencies from the operation of this statute because the escheat of property in federal custody is governed by Sections 1600 et seq.

Subdivision (g) has been revised to state more generally the meaning of "owner." It should be noted that more than one person may be an "owner" under this definition. For example, each of two joint owners would be an "owner"; likewise, any person having a legal or equitable interest in the property would be an "owner."

The reference to "any public corporation or utility" has been deleted from subdivision (h) as unnecessary in the light of Section 1502. The other revisions of subdivision (h) are nonsubstantive, clarifying changes.

Subdivision (i) has been revised to include persons engaged in the transportation or passage of persons or property within the definition of "utility" and to limit the definition to utilities whose rates are fixed by public rate-fixing agencies.

§ 1502. Application of chapter

SEC. 6. Section 1526 of the Code of Civil Procedure is renumbered and amended to read:

~~1526.~~ 1502. (a) This chapter ~~shall~~ does not apply to :

(1) Any property that ~~has-been-presumed-abandoned-or~~ was escheated under the laws of another state prior to ~~the-effective-date-of-this~~ chapter; ~~nor-shall-this-chapter-apply-to~~ September 18, 1959.

(2) Any property in the official custody of a municipal utility district ~~;-nor-to~~ .

(3) Any property in the official custody of a local agency if such property may be transferred to the General Fund of such agency under the provisions of Sections 50050-50053 of the Government Code.

(b) This chapter does not apply to any property held by a utility which the Public Utilities Commission of this state or a similar public agency of another state or of the United States considers as a part of the revenues of the utility in determining the rates to be charged by the utility, but this chapter does apply to property of the type described in Section 151¹4 which is held or owing by a utility.

(c) None of the provisions of this chapter apply to any type of property received by the state under the provisions of Chapters 1 to 6, inclusive, of this title.

Comment. Subdivision (a) of Section 1502 is substantially the same as former Section 1526.

Subdivision (b) has been added to meet a problem that was met under the previous law by excluding utilities from the operation of this chapter entirely.

§ 1502

Subdivision (b) contains two limitations not found in the prior law: (1) The exemption is limited to property that is considered as a part of the revenues of the utility in determining the rates to be charged by the utility. This limitation assures that the abandoned property which is covered by the exception will actually be used for the benefit of the rate payers rather than being a windfall to the utility stockholders. (2) The exemption does not apply to property described in Section 1514 (corporate stock, dividends, and the like). This limitation does not make the exemption inapplicable, for example, to sums owing ordinary creditors, such as persons furnishing materials or services, or to deposits made by customers or subscribers to secure payment for services to be furnished by the utility. This subdivision extends the existing exemption to include persons engaged in "the transportation or passage of persons or property." No justification appears for discriminating against common carrier utilities as distinguished from other types of utilities so long as the exemption applies only to property used for the benefit of the rate payers.

Subdivision (c) is the same as the second sentence of former Code of Civil Procedure Section 1500. Although the provisions of this chapter do not apply to any type of property received by the state under Chapters 1-6 of this title, certain provisions in those chapters apply to this chapter. For example, Section 1300 provides that its definitions apply throughout this title. Therefore, the definition of "escheat" and "permanent escheat" that appear in that section govern the construction of this chapter as well as the construction of the other chapters in this title.

ARTICLE 2. ESCHEAT OF UNCLAIMED PERSONAL PROPERTY

SEC. 7. Article 2 (commencing with Section 1510) is added to Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure, to read:

ARTICLE 2. ESCHEAT OF UNCLAIMED PERSONAL PROPERTY

§ 1510. General conditions for escheat of intangible personal property

1510. Unless otherwise provided by statute of this state, intangible personal property escheats to this state under this chapter if the conditions for escheat described in Sections 1511 to 1518, inclusive, are satisfied, and if:

(a) The last known address of the owner as shown on the records of the holder is in this state. In the case of a travelers check or money order, the person to whom it was issued is presumed to be the owner. Where a travelers check or money order is issued in this state, the last known address of the person to whom it was issued is presumed to be in this state unless a last known address in another state is shown on the records of the business association that issued the travelers check or money order. The presumptions established by this subdivision are presumptions affecting the burden of proof.

(b) No address of the owner appears on the records of the holder, and the holder is (1) domiciled in this state, or (2) a government or governmental subdivision or agency located in this state.

(c) The last known address of the owner as shown on the records of the holder is in a state designated by regulation adopted by the Controller as a state that does not provide by law for the escheat of such property, and the holder is (1) domiciled in this state, or (2) a government or governmental subdivision or agency located in this state.

(d) The last known address of the owner as shown on the records of the holder is in a state designated by regulation adopted by the

Controller as a state that is a party to the Unclaimed Property Compact (Section 1620), the holder is not subject to the jurisdiction of that state, and the holder is (1) domiciled in this state or (2) a government or governmental subdivision located in this state.

(e) The last known address of the owner as shown on the records of the holder is in a foreign nation, and the holder is (1) domiciled in this state, or (2) a government or governmental subdivision or agency located in this state.

Comment. Subdivisions (a), (b), and (c) of Section 1510 describe types of abandoned intangible property that this state may claim by escheat under the rules laid down in Texas v. New Jersey, 379 U.S. 674 (1965). The United States Supreme Court held in that case that intangible personal property that has been abandoned by its owner is subject to escheat by the state of the last known address of the owner as indicated by the books and records of the debtor. Where the books and records of the debtor do not provide a record of the owner's last address, the Supreme Court held that the property is subject to escheat by the state where the debtor is domiciled. Where the laws of the state of last known address do not provide for escheat of intangible property, the Supreme Court held that such property is subject to escheat by the state where the debtor is domiciled.

Section 1580 requires the Controller to designate by regulation those states whose laws do not provide for the escheat of any kind of intangible property described in Sections 1511 to 1518. Under subdivision (c), such property does not escheat to this state unless such regulations have been adopted. Thus, holders in this state will be able to determine whether property being held by them escheats to this state by reference to the Controller's regulations. It will be unnecessary for holders in this state to keep abreast of all of the escheat laws of the other states in the union.

§ 1510

The presumptions found in subdivision (a) are needed to provide rules for determining the person who is the "owner" of a travelers check or money order and for determining the state of his last known address.

Subdivision (d) is the substantive escheat provision that provides for the escheat to this state of property described in the Unclaimed Property Compact. See Section 1620. The Controller's regulations will also enable holders in this state to determine whether property being held by them escheats to this state under the compact.

Subdivision (e) relates to a problem that was not decided in Texas v. New Jersey. Subdivision (e) provides for the escheat to this state of intangible property held by a domiciliary of this state and owned by a person whose last known address was in a foreign nation.

§ 1511. Property held by banking or financial organizations; travelers checks

SEC. 8. Section 1502 of the Code of Civil Procedure is renumbered and amended to read:

~~1502.~~ 1511. The Subject to Section 1510, the following property held or owing by a banking-or-financial-organization-or business association is-presumed-abandoned escheats to this state :

(a) Any demand, savings, or matured time deposit made in-this State with a banking organization, together with any interest or dividends thereon, excluding any reasonable service charges which may lawfully be withheld and which do not (where made in this State) exceed those set forth in schedules filed by the banking organization from time to time with the State Controller, unless when the owner has, within , for more than 15 years , has not :

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

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

(b) Any funds paid in-this-State toward the purchase of shares or other interest in a financial organization or any deposit made therewith in-this-State , and any interest or dividends thereon, excluding any reasonable service charges which may lawfully be withheld and which do not (where paid or made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the State Controller, unless (when the owner has-within , for more than 15 years , has not :

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

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

(c) Any sum payable on any travelers check s issued ~~in this State by a business association maintaining its principal place of business in this State, or issued in this State by a banking or financial organization,~~ that has been outstanding for more than 15 years from the date of its issuance, ~~unless when the owner has within ,~~ for more than 15 years , has not corresponded in writing with the business association ~~or banking or financial organization~~ concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with such ~~organization or~~ association.

(d) Any sum payable on any other written instruments issued in ~~this State~~ on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, drafts, certified checks, and money orders, 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 charges that may lawfully be withheld, ~~unless when the owner has within ,~~ for more than seven years , has not corresponded 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.

§ 1511

~~(e)--Any funds or other personal property, tangible or intangible, after discharge of any lien or liens for storage charges, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this State on which the lease or rental period has expired due to nonpayment of rental charges or other reason, that have been unclaimed by the owner for more than seven years from the date on which the lease or rental period expired.~~

~~Nothing in this section shall be construed to relate to any instrument held or payable only outside the limits of the United States or payable only in currency other than United States currency, nor to any funds held only in or payable only in a foreign country.~~

Comment. Section 1511 is substantially the same as former Section 1502.

The revisions made to the section are either clarifying changes or revisions needed to make the section applicable to property held by out-of-state businesses as well as property held by businesses within this state. Former subdivision (e) is superseded by Section 1512. The last sentence (relating to instruments held or payable only outside the limits of the United States or payable only in currency other than United States currency and to funds held only in or payable only in a foreign country) has been deleted because this provision is not contained in the Uniform Act and abandons California's claim to property that it is constitutionally entitled to take.

§ 1512. Contents of safe deposit boxes

SEC. 9. Section 1512 is added to the Code of Civil Procedure, to read:

1512. The contents of any safe deposit box or any other safe-keeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than seven years from the date on which the lease or rental period on the box or other repository expired.

Comment. Section 1512 is substantially the same as former subdivision (e) of Section 1502 except that "contents" has been substituted for "any funds or other personal property, tangible or intangible."

§ 1503 (repealed)

SEC. 10. Section 1503 of the Code of Civil Procedure is repealed.

1503. (a) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this State.-- If a person other than the insured or annuitant is entitled to the funds and no address of such 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.

(b) "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than seven years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years; (1) assigned; readjusted, or paid premiums on the policy, or subjected the policy to loan, or (2) corresponded in writing with the life insurance corporation concerning the policy. Moneys 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.

Comment. Section 1503 is superseded by Section 1513.

§ 1513. Unclaimed funds held by life insurance corporations

SEC. 11. Section 1513 is added to the Code of Civil Procedure, to read:

1513. (a) Subject to Section 1510, any funds held and owing by any life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated escheat to this state if unclaimed and unpaid for more than seven years after the funds became due and payable as established from the records of the corporation.

(b) If the person entitled to the funds is not identified on the records of the corporation, the last known address of the person entitled to the funds is deemed to be the same as the last known address of the insured or annuitant according to the records of the corporation.

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

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

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

(3) Neither the insured nor any other person appearing to have an interest in the policy has, within the preceding seven years,

(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.

Comment. Section 1513 is in substance the same as former Section 1503 with such modifications as are necessary to provide for the escheat of property held by out-of-state life insurance corporations.

Subdivision (b) deals with a situation not mentioned in Texas v. New Jersey, 379 U.S. 674 (1965). The Supreme Court there dealt only with property for which an owner could be identified from the books of the holder. Subdivision (b) deals with the situation where no one can be identified as the person entitled to the property from the books of the holder, as, for example, when the deceased insured's policy is payable to his estate. Subdivision (b) provides, in effect, that in such a situation the state of the insured's last address as shown on the holder's books is entitled to escheat the property, and if that state has no escheat law, the state of incorporation of the holder-insurance company is entitled to escheat the property.

§ 1514. Undistributed dividends and distributions of business associations

SEC. 12. Section 1504 of the Code of Civil Procedure is renumbered and amended to read:

~~1504.~~ 1514. (a) Any 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 co-operative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, escheats to this state. ~~is presumed abandoned if:~~

(1) ~~--It is held or owing by a business association organized under the laws of or created in this State; or~~

(2) ~~--It is held or owing by a business association doing business in this State, including a national banking association, but not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled thereto is in this State.~~

(b) Any Subject to Section 1510, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, owned by a person who has not claimed a dividend or other sum escheated ~~presumed abandoned~~ under subdivision paragraph (a) of this section, and who has not corresponded in writing with the business association concerning such interest for 15 years following the time such dividend or other sum escheated, ~~escheats to this state.~~ ~~was presumed abandoned, is presumed abandoned if:~~

(1) ~~--The business association was organized under the laws of or created in this State; or~~

§ 1514

~~(2) -- The business association is doing business in this State, including a national banking association, but was not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled to such interest is in this State.~~

For the purposes of this chapter the business association with respect to such interest shall be deemed a holder.

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

Comment. Section 1514 is substantially the same as former Section 1504. The revisions made to the section are those necessary to provide for the escheat of property held by out-of-state business associations as well as business associations within this state.

§ 1505 (repealed)

SEC. 13. Section 1505 of the Code of Civil Procedure is repealed.

~~1505.--All-intangible-personal-property-distributable-in the
course-of-a-voluntary-dissolution-of-a-business-association,-banking
organization,-or-financial-organization-organized-under--the-laws
of-or-created-in-this-State, that-is-unclaimed-by-the-owner
within-two-years-after-the-date-for-final-distribution,-is-presumed
abandoned.~~

Comment. Section 1505 is superseded by Section 1515.

§ 1515

§ 1515. Property of business associations held in course of dissolution

SEC. 14. Section 1515 is added to the Code of Civil Procedure, to read:

1515. All tangible personal property located in this state; and, subject to Section 1510, all intangible property, distributable in the course of a voluntary or involuntary dissolution or liquidation of a business association that is unclaimed by the owner at the date of final distribution or liquidation escheats to this state.

Comment. Section 1515 is similar to former Section 1505. Unlike the former section, however, Section 1515 applies to tangible personal property located in this state as well as to intangible personal property. Section 1515 also extends the state's escheat claim to property distributable by any business association whether or not organized under the laws of this state. Section 1515 provides that the property escheats at the time of final distribution or liquidation of the business association's assets. Under the former section, the state's claim to the property did not arise until two years after the date for final distribution. Inasmuch as property escheated to this state under Section 1515 remains subject to the owner's claim for several years, there appears to be no reason to postpone the transfer of the custody of the property to the state.

Section 1534 grants the State Controller the right to reject tangible personal property that escheats under Section 1515 when he determines that the state's interest would not be served by accepting it.

§ 1516. Property held by fiduciaries

SEC. 15. Section 1506 of the Code of Civil Procedure is renumbered and amended to read:

~~1506.~~ 1516. (a) Subject to Section 1510, All any intangible personal property, and or any income or increment thereof of any property , held in a fiduciary capacity for the benefit of another person ~~is presumed abandoned unless~~ escheats to this state if the owner has not , within seven years after it becomes payable or distributable, ~~increased or decreased the principal,~~ accepted payment ~~of principal or income,~~ or distribution of some portion thereof, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary ;

~~(a) -- If the property is held by a business association, banking organization, or financial organization organized under the laws of or created in this State; or~~

~~(b) -- If it is held by a business association, banking organization, or financial organization (including a national banking association) doing business in this State, but not organized under the laws of or created in this State, and the records of the business association, banking organization, or financial organization indicate that the last known address of the person entitled thereto is in this State; or~~

~~(c) -- If it is held in this State by another person,~~

(b) For the purpose of this section, when a ~~banking organization (including a national banking association), a business association, or~~ a person holds ~~the above-described~~ intangible property as an agent for a business association, ~~such holder shall be~~ he is deemed to

§ 1516

hold such property in a fiduciary capacity for the business association alone, unless the agreement between ~~such-a-holder~~ him and ~~such-a~~ the business association clearly provides the contrary. ~~In-the-event-such~~ If a person holds property is-deemed-held in a fiduciary capacity for the a business association alone , he is the holder of the property only insofar as the interest of the business association in such property is concerned and the such association shall-be is deemed to be the holder of such the property for-all-purposes-contemplated-by-this chapter insofar as the interest of any other person in the property is concerned .

Comment. Section 1516 is substantially the same as former Section 1506. The revisions made to the section are those necessary to clarify its meaning and to make the section applicable to fiduciaries and business associations wherever located.

§ 1517. Property held by any government or governmental subdivision or agency

SEC. 16. Section 1507 of the Code of Civil Procedure is renumbered and amended to read:

~~1507.~~ 1517. ~~Subject to the provisions of Section 1526, all~~
All tangible personal property located in this state, and, subject
to Section 1510, all intangible personal property , held for
the owner by any court, ~~public corporation, public authority, or~~
~~public officer of this state, or a political subdivision thereof~~
government or governmental subdivision or agency , that has remained
unclaimed by the owner for more than seven years ~~is presumed~~
abandoned escheats to this state .

Comment. Section 1517 is substantially the same as former Section 1507. The section is modified to make it applicable to tangible as well as intangible property and to make it applicable to intangible property no matter where the holder of such property may be located.

Section 1534 grants the State Controller the right to reject tangible personal property that escheats under Section 1517 when he determines that the state's interest would not be served by accepting it.

§ 1518. Other property held for another person

SEC. 17. Section 1508 of the Code of Civil Procedure is renumbered and amended to read:

~~1508.~~ 1518. 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 ~~1502,-1503,-1504,~~ ~~1505,-1506,-and-1507-of-this-code~~ 1511, 1512, 1513, 1514, 1515, 1516, and 1517 , including any income or increment thereon and deducting any lawful charges, that is held or owing ~~in-this-State~~ in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is ~~presumed-abandoned~~ escheats to this state .

Comment. Section 1518 is substantially the same as former Section 1508. The section is modified to make it applicable to tangible as well as intangible property and to make it applicable to intangible property no matter where the holder of such property may be located.

Section 1534 grants the State Controller the right to reject tangible personal property that escheats under Section 1518 when he determines that the state's interest would not be served by accepting it.

§ 1509 (repealed)

SEC. 18. Section 1509 of the Code of Civil Procedure is repealed.

~~1509.--If specific property which is subject to the provisions of Sections 1502, 1504, 1505, 1506, and 1508 of this code is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this State and subject to this chapter if:~~

~~(a)--It may be claimed as abandoned or escheated under the laws of such other state; and~~

~~(b)--The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this State by a holder who is subject to the jurisdiction of this State.~~

Comment. Section 1509 is inconsistent with the Supreme Court's decision in Texas v. New Jersey, 379 U.S. 674 (1965), and the revisions made in this chapter to conform to that decision. Hence, Section 1509 is repealed.

§ 1530

ARTICLE 3. IDENTIFICATION OF ESCHEATED PROPERTY

SEC. 19. A new article heading is added immediately preceding Section 1510 of the Code of Civil Procedure, which section is renumbered as Section 1530 by this act, to read:

ARTICLE 3. IDENTIFICATION OF ESCHEATED PROPERTY

§ 1530. Report of escheated property

SEC. 20. Section 1510 of the Code of Civil Procedure is renumbered and amended to read:

~~1510.~~ 1530. (a) Every person holding funds or other property ~~,-tangible-or-intangible,-presumed-abandoned~~ escheated to this state under this chapter shall report to the State Controller with respect to the property as hereinafter provided.

(b) The report shall be on a form prescribed by or approved by the Controller verified and shall include:

(1) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of more than ten dollars (\$10) ~~or-more-presumed abandoned~~ escheated under this chapter;

(2) In case of ~~unclaimed~~ funds of life insurance corporations, the full name of the ~~insured-or-annuitant~~ person appearing to be the owner, and his last known address , according to the life insurance corporation's records;

(3) In case of ~~money-or-ether-personal-property-removed-from~~ the contents of a safe deposit box or other repository or agency in the case of other tangible property , reference to such property and the place where it is held and may be inspected by the Controller . The report shall set forth any amounts owing to the holder for unpaid rent or storage charges and for the cost of opening the safe deposit box or other repository, if any, in which the property was contained .

(4) The nature and identifying number, if any, or description of the any intangible property and the amount appearing from the records to be due, except that items of value under of ten dollars (\$10) or less each may be reported in aggregate;

(5) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(6) Other information which the State Controller prescribes by rule as necessary for the administration of this chapter.

(c) If the person-holding-property-presumed-abandoned holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1st of each year as of June 30th or fiscal year-end next preceding, but the report of life insurance corporations shall be filed before May 1st of each year as of December 31st next preceding. The State Controller may postpone the reporting date upon his own motion or upon written request by any person required to file a report.

~~(e) -- If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. -- The holder shall exercise reasonable diligence to ascertain the whereabouts of the owner.~~

(f) (g) Verification The report , if made by a partnership, shall be executed verified by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(g)--The initial report filed under this chapter shall include all items of property held for another person which are ascertainable from the available records of the holder, which items of property would have been presumed abandoned if this chapter had been in effect at and after the time such property first became payable, demandable or returnable; provided, that only such moneys which first became unclaimed funds, as that term is defined in this chapter, within three years preceding the effective date of this chapter must be included within the initial report and any other moneys constituting unclaimed funds as thus defined may be included within the initial or any subsequent report and if so included the holder shall be entitled to the protection afforded by Section 1513. All items of property, less proper charges and offsets, other than unclaimed funds, which on January 1, 1949 appeared from the available records to be held for another person and were thereafter without notice to the owner or without prior approval of any regulatory or licensing authority of this State transferred or credited by the holder directly to capital or surplus or undivided profits shall be deemed to be subject to the provisions of this chapter and shall be included within the initial report.

Comment. Section 1530 is substantially the same as former Section 1510. The changes made in the section are, for the most part, technical and are necessary to conform the section to the remainder of the chapter.

The items that a holder may report in the aggregate have been changed from those of less than \$10 to those of \$10 or less, so that the items that do not have to be separately stated will be those that correspond with the amount the Controller may charge for servicing the property under Section 1540(d).

Former subdivision (e) has been omitted because subdivision (e) merely duplicated the notice requirement of subdivision (d) of Section 1531.

Former subdivision (g) has been omitted because it was a temporary provision governing the property subject to the reporting requirement as of September 18, 1959. Section 54 of this act preserves the force of subdivision (g) to the extent that it is needed.

§ 1531. Notice and publication of lists of unclaimed property

SEC. 21. Section 1511 of the Code of Civil Procedure is renumbered and amended to read:

~~1511.~~ 1531. (a) Subject to Section 1534, within 120 days from the final date for filing the reports required by Section ~~1510~~ 1530, the State Controller shall cause a notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in ~~the~~ each county in this state in which is located :

(1) The last known address, as listed in the reports, of any person to-be named in the notice, reports as the owner of property escheated to this state under this chapter; or

(2) If no address of any owner named in the reports is listed, or if the address listed in the reports for any owner named therein is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his the principal place of business within this state of the holder of the owner's property .

(b) ~~The~~ Each published notice shall be entitled "notice of names of persons appearing to be owners of abandoned unclaimed property," and shall contain ~~4-~~(1) the names in alphabetical order and last known addresses, if any, of :

(1) Those owners persons listed in the reports and entitled to-notice as having a last known address within the county as-here-inbefore-specified ; and

(2) Those owners listed as having a last known address outside this state or as having no last known address in a report filed by a holder with his principal place of business within the county .

(c) Each published notice shall also contain:

~~(2)~~ (1) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the State Controller.

~~(3)~~ (2) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction ~~within 65 days from the date of the second published notice;~~ before a date specified in the notice (which shall be the date five months from the final date for filing the report), the abandoned property will be placed , not later than ~~85 days~~ one month after such publication date , in the custody of the State Controller and all further claims must thereafter be directed to the State Controller.

(3) A statement that if no claim is filed with the State Controller within five years after the close of the calendar year in which the property is paid or delivered to the State Controller, the property may be permanently escheated to the state and all right, title, or interest therein of the owners terminated and all claims of the owners thereto forever barred.

~~(e)~~ (d) The State Controller is not required to publish in such notice any item of less than twenty-five dollars (\$25) unless he deems such publication to be in the public interest.

~~(a)~~ (e) Subject to Section 1534, within 120 days from the ~~receipt of the~~ final date for filing a report required by Section ~~1510~~ 1530 , the State Controller shall mail a notice to each person

having an address listed therein who appears to be entitled to property ~~of the value of twenty-five dollars (\$25) or more~~ presumed abandoned escheated under this chapter.

(e) (f) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice the property will be placed in the custody of the State Controller and all further claims must be directed to the State Controller.

(4) A statement that if no claim is filed with the State Controller within five years after the close of the calendar year in which the property is paid or delivered to the State Controller, the property may be permanently escheated to the state and all right, title, or interest therein of the owners terminated and all claims of the owners thereto forever barred.

(g) This section is not applicable to sums payable on travelers checks or money orders that escheat under Section 1511.

Comment. Section 1531 is substantially the same as former Section 1511.

Paragraph (3) has been added to subdivision (c) and paragraph (4) to subdivision (f) to conform with Section 1550. Subdivision (e) has been revised to require the State Controller to send a notice to all persons who

may claim property held for them by a holder or the State Controller under this chapter. Former subdivision (e) of Section 1530 required the holder alone to send notices to owners of property valued at less than \$25. This burden has been transferred to the State Controller because the state, not the holder, will eventually succeed to the property. As the state receives substantial benefits as the ultimate successor to unclaimed property, it should also bear whatever burdens of notice are required to accomplish the escheat of such property.

§ 1532. Payment and delivery of property to State Controller

SEC. 22. Section 1512 of the Code of Civil Procedure is renumbered and amended to read:

~~1512.~~ 1532. (a) Subject to subdivisions (b) and (c) and Section 1533, ~~every~~ Every person who has filed a report as provided by Section ~~1510~~ 1530 shall, within ~~seven~~ six months from the final date for filing reports as required by Section ~~1510~~ 1530 , pay or deliver to the State Controller all ~~abandoned~~ escheated property specified in the report ~~;-provided;-that~~ .

(b) If the owner establishes his right to receive any ~~abandoned~~ property specified in the report to the satisfaction of the holder before such property has been delivered to the State Controller, or if it appears that for some other reason the ~~presumption-of-abandonment~~ is-erroneous property is not subject to escheat under this chapter , the holder need not pay or deliver the property ~~;-which-will-no-longer-be-presumed-abandoned;~~ to the State Controller, but in lieu thereof shall file with the State Controller a written explanation of the proof of claim or of the ~~error-in-the-presumption-of-abandonment~~ reason the property is not subject to escheat .

(c) In the case of sums payable on travelers checks or money orders escheated under Section 1511, such sums shall be paid to the State Controller not later than 20 days after the final date for filing the report.

(b) The holder of any interest under subdivision (b) of Section 1504(b) 1514 shall deliver a duplicate certificate to the State Controller. Upon delivery of a duplicate certificate to the State Controller, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering

such duplicate certificate shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate ~~presumed~~-abandoned or the duplicate of such certificate issued to the State Controller for any losses or damages resulting to such person by the issuance and delivery to the State Controller of such duplicate certificate.

(c) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at such other location as the Controller by regulation may designate.
Tangible personal property shall be delivered to the Controller at the place where it is held.

Comment. Subdivisions (a) and (b) of Section 1532 are substantially the same as former Section 1512. The time period for remitting escheated property to the Controller has been shortened from seven to six months from the final date for filing reports so that the property may be received by the State Controller in some month other than the last month of the fiscal year.

Subdivision (c) has been added to the section so that holders will not have to bear the expense of shipping tangible property to the Controller in Sacramento.

§ 1533. Controller may reject tangible personal property

SEC. 23. Section 1533 is added to the Code of Civil Procedure, to read:

1533. Tangible personal property may be excluded from the notices required by Section 1531, shall not be delivered to the State Controller pursuant to Section 1532, and shall not escheat to the state, if the State Controller, in his discretion, determines that it is not in the interest of the state to take custody of such property and notifies the holder in writing of such determination not less than 120 days after the final date for filing the report listing such property.

Comment. Some of the tangible personal property that is subject to escheat under Sections 1512, 1515, 1517, and 1518 is of little or no value, and the cost of transporting it, storing it, and disposing of it would far exceed its worth. Section 1533 grants the State Controller the right to reject such property when he determines that the state's interest would not be served by accepting it.

§ 1540

ARTICLE 4. PAYMENT OF CLAIMS

SEC. 24. Article 4 (commencing with Section 1540) is added to Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure, to read:

ARTICLE 4. PAYMENT OF CLAIMS

§ 1540. Claim for escheated property by owner

1540. (a) Any person, not including another state, claiming an interest in property paid or delivered to the State Controller under this chapter may file a claim thereto or to the net proceeds of the sale thereof at any time before such property is permanently escheated to the state under this chapter. The claim shall be on a form prescribed by the State Controller and shall be verified by the claimant.

(b) The State Controller shall consider each claim within 90 days after it is filed. He may hold a hearing and receive evidence concerning the claim. He shall give written notice to the claimant if he denies the claim in whole or in part. Such 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 such 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 when the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) There shall be deducted by the State Controller from the amount of any allowed and approved claim under this section, one percent of the total amount of such claim, but in no event less than ten dollars (\$10), for each individual share claimed, as a service charge for the receipt, accounting for, and management of the money or other property claimed and for the processing of the claim filed to recover the same.

Comment. Section 1540 repeats in substance the provisions of former Sections 1518 and 1519. Although the time limit specified in subdivision (b) did not appear in either of the superseded sections, it did appear from the provisions of former Section 1520 (superseded by Section 1541).

§ 1518 (repealed)

SEC. 25. Section 1518 of the Code of Civil Procedure is repealed.

~~1518.--Any person claiming an interest in any property
delivered to the State under this chapter may file a personally
verified claim thereto or to the proceeds from the sale thereof
on the form prescribed by the State Controller.~~

Comment. Section 1518 is superseded by Section 1540.

§ 1519 (repealed)

SEC. 26. Section 1519 of the Code of Civil Procedure is repealed.

~~1519.--(a)--The State Controller shall consider any claim filed under this chapter and may hold a hearing and receive evidence concerning it.--If a hearing is held he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision.--The decision shall be a public record.~~

~~(b)--There shall be deducted by the State Controller from the amount of any allowed and approved claim under this section, 1 percent of the total amount of such claim, but in no event less than ten dollars (\$10), for each individual share claimed, as a service charge for the receipt, accounting for, and management of the money or other property claimed and for the processing of the claim filed to recover the same.~~

Comment. Section 1519 is superseded by Section 1540.

§ 1541. Judicial action upon determination

SEC. 27. Section 1520 of the Code of Civil Procedure is renumbered and amended to read:

~~1520.~~ 1541. Any person aggrieved by a decision of the State Controller or as to whose claim the Controller has failed to act within 90 days after the filing of the claim, may ~~file a petition~~ commence an action to establish his claim in the superior court in any county or city and county in which the Attorney General has an office. The ~~proceeding~~ action shall be brought within 90 days after the decision of the State Controller or within 180 days from the filing of the claim if the State Controller fails to act. ~~A copy of the petition and of a notice of hearing~~ The summons shall be served upon the State Controller and the Attorney General and the Attorney General shall have ~~not less than 30~~ 60 days within which to respond by answer. ~~In lieu of answer, the Attorney General may file a statement of noninterest whereupon the petitioner shall present to the court his prima facie proof of entitlement.~~ The ~~proceeding~~ action shall be tried without a jury. If judgment is awarded in favor of petitioner, the State Controller shall make payment subject to any charges provided by subdivision (c) of Section 1519(b) 1540 . ~~No costs of trial shall be allowed for or against the petitioner.~~

Comment. Section 1541 is substantially the same as former Section 1520. The former section did not provide a time limit within which the Attorney General was required to respond by answer. The revised section does contain such a limit. The last sentence has been deleted so that the normal rule governing costs will be applicable.

§ 1542. Right of another state to recover escheated property

SEC. 28. Section 1542 is added to the Code of Civil Procedure, to read:

1542. (a) At any time after property has been paid or delivered to the State Controller under this chapter, and notwithstanding the permanent escheat of such property pursuant to Section 1550 or 1551, any other state is entitled to recover such property if:

(1) The property escheated to this state under subdivision (b) of Section 1510 because no address of the owner of the property appeared on the records of the holder when the property was escheated under this chapter and the last known address of the owner was in fact in such other state; or

(2) The last known address of the owner of the property appearing on the records of the holder is in such other state, the property escheated to this state under subdivision (c) of Section 1510, and, under the laws of such other state, the property has escheated to that state.

(b) The claim of another state to recover escheated property under this section shall be presented in writing to the State Controller, who shall consider each such claim within 90 days after it is presented. He may hold a hearing and receive evidence concerning such claim. He shall allow a claim if he determines that the other state is entitled to the escheated property. Any claim allowed under this section is subject to any charges provided in subdivision (c) of Section 1540.

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Comment. Section 1542 has no counterpart in the previous statutory law of California. It is necessary, however, to provide a procedural means for this state to comply with the decision in Texas v. New Jersey, 379 U.S. 674 (1965). The United States Supreme Court in that case held that property escheated by one state under the conditions that are now specified in subdivisions (b) and (c) of Section 1510 could subsequently be claimed by another state under the circumstances described in subdivision (a) of Section 1542. Section 1542 provides the administrative procedure for handling such claims.

§ 1550

ARTICLE 5. PERMANENT ESCHEAT

SEC. 29. Article 5 (commencing with Section 1550) is added to Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure to read:

ARTICLE 5. PERMANENT ESCHEAT

§ 1550. Judicial proceeding for permanent escheat

1550. (a) At any time after the close of the fifth calendar year after the year in which any property escheated under this chapter is paid or delivered to the State Controller, if no claim therefor has been made and established by any person, not including another state, entitled thereto, the State Controller may commence a civil action in the superior court for Sacramento County for a determination that such property shall permanently escheat to the state; but if at the expiration of such fifth year, an action previously brought by a claimant under Section 1541 is pending, or if a person who has filed a claim to the property under Section 1540 remains entitled at the expiration of such fifth year to bring a court action under Section 1541, the State Controller may not commence his civil action until after a final court judgment has been rendered adversely to the petitioning claimant, or until after the expiration of the period in which a claimant would be entitled to bring a court action under Section 1541.

(b) At the time such action is commenced, the State Controller shall cause notice thereof to be published once each week for two successive weeks in a newspaper having general circulation in the county in which is situated the last known address of the owner according to the records of the State Controller. If no address is listed, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state. Such notice shall be entitled "Notice of Proceedings to Declare Certain

Unclaimed Property Permanently Escheated to the State of California" and shall include the following matters:

- (1) The name of the owner and his last known address, if known.
- (2) A brief description of the property.
- (3) The name of the prior holder or holders.
- (4) The amount or value of the property.
- (5) A statement that a complaint has been filed in the action for permanent escheat.

- (6) The place, time, and date of the hearing.

- (7) A direction that unless any person claiming to be entitled to the property, or his representative, makes claim for the property in the manner provided in Section 1540 before the hearing, or appears at the hearing to substantiate his claim, the property will permanently escheat to the state and all right, title, or interest therein of the owners will be terminated and all claims of the owners thereto forever barred.

(c) At the time such action is commenced, the State Controller shall mail to the last known address of the owner according to the records of the State Controller a notice alike in all respects to the published notice required under subsection (b).

(d) The court shall enter a judgment that the subject property has permanently escheated to the state and that all right, title, or interest therein of the owners is terminated and all claims of the owners thereto forever barred if the court is satisfied by evidence that the State Controller has complied with this chapter, and:

(1) No person files a claim or appears at the hearing to present a claim; or

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(2) The court determines that a claimant is not entitled to the property claimed by him.

Comment. Sections 1550 and 1551 have been added to this chapter in order to harmonize the escheat provisions of this chapter with the escheat provisions appearing in Chapters 1-6 (Sections 1300-1476) of the title on unclaimed property. The earlier escheat provisions all provide for the permanent escheat of property that is paid or delivered to the State Controller after a requisite period of time has elapsed within which the owner may claim the property. This procedure permits the Controller to clear his books in regard to such property. Sections 1550 and 1551 provide a comparable procedure for the permanent escheat of property paid or delivered to the State Controller under this chapter.

Section 1550 describes a procedure which must be followed to accomplish the permanent escheat of all property valued at more than \$1,000 and which may be followed to accomplish the permanent escheat of any property. Section 1551 describes an alternate procedure which may be followed for the permanent escheat of property valued at \$1,000 or less.

§ 1551. Permanent escheat of property valued at \$1,000 or less

1551. (a) At any time after the close of the fifth calendar year after the year in which any property escheated under this chapter is paid or delivered to the State Controller, the State Controller may, in lieu of the procedure provided in Section 1550, prepare a return listing such property and give notice thereof in the manner provided in this section if such property is then of a value of \$1,000 or less.

(b) The return shall list each item and show all of the following:

(1) The amount of the property, if money, or a description thereof if other than money.

(2) The name of the owner or claimant and his last known address, if known.

(3) The name and address of the person delivering the property to the State Controller.

(4) The facts and circumstances by virtue of which it is claimed the property has escheated or vested in the State.

(5) Such other information as the State Controller may desire to include to assist in identifying each item.

(c) When the return has been completed, the Controller shall prepare, date, and attach thereto a notice that the property listed in the return has escheated or vested in the state. Copies of such return and notice shall then be displayed and be open to public inspection during business hours in at least three offices of the Controller, one in the City of Sacramento, one in the City and County of San Francisco, and one in the City of Los Angeles.

(d) The Controller shall then cause notice to be given by publication in one newspaper of general circulation published in the City of Sacramento, in one newspaper of general circulation published in the City of San Francisco, and in one newspaper of general circulation published in the City of Los Angeles, at least once each calendar week for four consecutive weeks, that the return and notice that the property listed in the return has escheated or vested in the state has been prepared and is on display and open to public inspection during business hours, giving the addresses and room numbers of the locations where the return may be inspected. Such publication shall be made within 90 days after attaching the notice to the return. Notice by such publication shall be deemed completed four months after attaching the notice to the return.

(e) Within one year after such notice by publication is completed, any person entitled to such property may claim it in the manner provided in Section 1540. All persons who fail to make such claim within the time limited are forever barred and the property is permanently escheated to the state except that infants and persons of unsound mind have the right to appear and claim such property at any time within the time limited, or within one year after their respective disabilities cease, whichever is the later date.

Comment. Section 1551 describes a procedure which may be followed by the Controller to permanently escheat property valued at \$1,000 or less. Section 1551 follows closely the provisions of Section 1415. The section permits the State Controller to proceed by notice only in those cases where the amount of the property involved does not warrant the expense that would be incurred in a judicial proceeding to escheat the property.

§ 1560

ARTICLE 6. ADMINISTRATION OF UNCLAIMED PROPERTY

SEC. 30. A new article heading is added immediately preceding Section 1513 of the Code of Civil Procedure, which section is re-numbered as Section 1560 by this act, such new article heading to read:

ARTICLE 6. ADMINISTRATION OF UNCLAIMED PROPERTY

§ 1560. Relief from liability by payment or delivery

SEC. 31. Section 1513 of the Code of Civil Procedure is re-numbered and amended to read:

1513. 1560. (a) Upon the payment or delivery of abandoned escheated property to the State Controller, the state shall assume custody and shall be responsible for the safekeeping thereof of the property . Any person who pays or delivers abandoned property to the State Controller under this chapter is relieved . all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Property removed from a safe deposit box or other repository shall be received by the State Controller subject to any valid lien of the holder for rent and other charges, such rent and other charges to paid out of the proceeds remaining after the State Controller has deducted therefrom his selling cost.

(b) Any holder who has paid moneys to the State Controller pursuant to this chapter that has not been permanently escheated may make payment to any person appearing to such holder to be entitled thereto, and upon filing proof of such payment and proof that the payee was entitled thereto, the State Controller shall forthwith reimburse the holder for the payment.

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

Comment. Section 1560 is substantially the same as former Section 1513.

§ 1561. Indemnification of holder after payment or delivery

SEC. 32. Section 1561 is added to the Code of Civil Procedure, to read:

1561. If any holder pays or delivers any escheated property to the State Controller in accordance with this chapter and at any time thereafter the owner claims the property from the holder or another state claims such property from the holder under its laws relating to escheat, the State Controller shall, upon written notice of such claim, undertake to defend the holder against such claim and shall indemnify and save harmless the holder against any liability upon such claim.

Comment. Under Section 1510, some property escheats to this state that may later escheat to another state. In some cases, the owner of the property may claim it from the holder after the property has escheated and been delivered to the state. To protect a holder who has delivered escheated property to this state from the necessity for defending either the owner's claim or another state's escheat claim, Section 1561 requires the State Controller to defend the holder against the claim and to save him harmless from any liability thereon. If the owner or the claiming state is in fact entitled to the property, the State Controller may deliver the property to the claimant as provided in Section 1540 or 1542.

Section 1561, like Section 1560, applies only where escheated property has been paid to the Controller in accordance with this chapter. If the holder erroneously delivers to the Controller property that has not escheated, this section does not require the Controller to protect the holder from the cost of defending against the claims of the true owner. Of course, the holder may recover any such property mistakenly delivered to the Controller. See Section 1564 (authorizing refund of erroneous payments).

§ 1562. Income accruing after payment or delivery

SEC. 33. Section 1514 of the Code of Civil Procedure is renumbered and amended to read:

~~1514.~~ 1562. When property other than money is delivered to the State Controller under this chapter, any dividends, interest or other increments realized or accruing on such property at or prior to liquidation or conversion thereof into money, shall upon receipt be credited to the owner's account by the State Controller. Except for amounts so credited the owner is not entitled to receive income or other increments on money or other property paid or delivered to the State Controller under this chapter. All interest received and other income derived from the investment of moneys deposited in the Unclaimed Property Fund under the provisions of this chapter shall, on order of the State Controller, be transferred to the General Fund.

Comment. Section 1562 is the same as former Section 1514.

§ 1563. Sale of escheated property

SEC. 34.. Section 1516 of the Code of Civil Procedure is renumbered and amended to read:

~~1516.~~ 1563. (a) All abandoned escheated property other than money and securities listed on any established stock exchange delivered to the State Controller under this chapter shall be sold by the State Controller to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The State Controller may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Securities listed on an established stock exchange shall be sold at the prevailing prices on said exchange.

~~(c)~~ (c) Any sale of abandoned escheated property, other than money and securities listed on any established stock exchange, held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.

~~(d)~~ (d) The purchaser at any sale conducted by the State Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Controller shall execute all documents necessary to complete the transfer of title.

~~(e) -- No action shall be brought or maintained by any person against the state or any officer thereof for or on account of any transaction entered into pursuant to and in accordance with the provisions of this section.~~

Comment. Section 1563 is substantively the same as former Section 1516. Former subdivision (d) has been deleted as unnecessary in light of the broader provisions of Section 1566.

§ 1564. Disposition of funds

SEC. 35. Section 1517 of the Code of Civil Procedure is renumbered and amended to read:

~~1517.~~ 1564. (a) All money received under this chapter, including the proceeds from the sale of property under Section ~~1516~~ 1563, shall be deposited in the Unclaimed Property Fund in an account titled "Abandoned Property."

(b) All money in the abandoned property account in the Unclaimed Property Fund is hereby continuously appropriated to the State Controller, without regard to fiscal years, for expenditure ~~for~~ 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 State Controller under the provisions of ~~Section 1519;~~ this chapter.

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

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

(4) For payment of the cost incurred by the State Controller covering the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the State Controller, or which arose from complying with this chapter with respect to such 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 State Controller for the repair, maintenance, and upkeep of property held in the name of an account in such 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 fund :

(8) For transfer to the General Fund as provided in paragraph subdivision (c) of this section .

(c) At the end of each month, or oftener if he deems it advisable, the State 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, he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned escheated property and of 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.

Comment. Section 1564 is substantially the same as former Section 1517. The preliminary language of subdivision (b) has been modified to broaden the purposes for which the money in the abandoned property account may be expended. Certain expenses that the Controller is authorized to incur in the administration of this fund are not clearly included among the specific purposes listed in subdivision (b). For example, litigation costs incurred under Sections 1571-1574 are not clearly covered by the itemized list. The revised language eliminates any uncertainty over the availability of the fund for such ordinary administrative expenses.

§ 1565. Disposition of property having no commercial value

SEC. 36. Section 1521 of the Code of Civil Procedure is
renumbered and amended to read:

1521. 1565. Any property delivered to the State Controller pursuant to this chapter which has no ~~obvious~~ apparent commercial value shall be retained by the State Controller until such time as he determines to destroy or otherwise dispose of ~~the same~~ it . If the State Controller determines that any property delivered to him pursuant to this chapter has no ~~obvious~~ apparent commercial value, he may at any time thereafter destroy or otherwise dispose of the ~~same~~ property , and in that event no action or proceeding shall be brought or maintained against the state or any officer thereof or against the holder for or on account of any action taken by the State Controller pursuant to this chapter with respect to ~~said~~ the property.

Comment. Section 1565 is substantially the same as former Section 1521.

§ 1566. Certain actions against state and state officials barred

SEC. 37. Section 1566 is added to the Code of Civil Procedure, to read:

1566. No action may be brought or maintained by any person against the state or any officer thereof for or on account of any transaction entered into, or the payment of any claim, pursuant to and in accordance with the provisions of this chapter.

Comment. Section 1566 is similar to subdivision (d) of former Section 1516. The provision has been broadened, however, to exonerate the state from liability if, despite compliance with all of the requirements of this chapter, a state officer or employee erroneously pays property to one claimant and it is ultimately determined that another is entitled to the property. This section does not affect the right of the person entitled to the property to recover it from the person to whom it was erroneously paid.

§ 1570

ARTICLE 7. COMPLIANCE AND ENFORCEMENT

SEC. 38. A new article heading is added immediately prededing Section 1515 of the Code of Civil Procedure, which section is re-numbered as Section 1570 by this act, such new article heading to read:

ARTICLE 7. COMPLIANCE AND ENFORCEMENT

§ 1570. Limitations as not affecting escheat, duty to file report or pay or deliver escheated property

SEC. 39. Section 1515 of the Code of Civil Procedure is re-numbered and amended to read:

~~1515.~~ 1570. The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, ~~shall~~ does not prevent the money or property from being ~~presumed-abandoned-property~~ escheated , nor affect any duty to file a report required by this chapter or to pay or deliver ~~abandoned~~ escheated property to the State Controller. The payment or delivery of escheated property to the Controller does not revive or reinstate any right to claim such property that is barred at the time of such payment or delivery either because of failure to present such claim to the holder or because of failure to commence an action thereon within the period prescribed by an applicable statute of limitations.

Comment. The first sentence of Section 1570 is substantially the same as former Section 1515. The second sentence has been added to make clear that if the owner's claim against the holder is barred, his claim against the Controller is also barred.

§ 1571. Examination of records

SEC. 40. Section 1522 of the Code of Civil Procedure is re-numbered and amended to read:

~~1522.~~ 1571. (a) The State Controller may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this chapter.

(b) When requested by the State Controller, such examination shall be conducted by any licensing or regulating agency otherwise empowered by the laws of this state to examine the records of the holder. For the purpose of determining compliance with this chapter, the Superintendent of Banks and the Savings and Loan Commissioner are hereby respectively vested with full authority to examine the records of any banking organization and any savings and loan association doing business within this state but not organized under the laws of or created in this state.

Comment. Section 1571 is substantially the same as former Section 1522.

§ 1523 (repealed)

SEC. 41. Section 1523 of the Code of Civil Procedure is repealed.

~~1523. -- If any person refuses to deliver property to the State
Controller as required under this chapter, the State Controller shall
bring an action in a court of appropriate jurisdiction to enforce such
delivery:~~

Comment. Section 1523 has been superseded by the provisions of
Section 1572.

§ 1572. Action to enforce compliance

SEC. 42. Section 1572 is added to the Code of Civil Procedure, to read:

1572. (a) The State Controller may bring an action in a court of appropriate jurisdiction, as specified in this section, for any of the following purposes:

(1) To enforce the duty of any person under this chapter to permit the examination of the records of such person.

(2) For a judicial determination that particular property is subject to escheat by this state pursuant to this chapter.

(3) To enforce the delivery of any property to the State Controller as required under this chapter.

(b) The State Controller may bring an action under this chapter in any court of this state of appropriate jurisdiction in any of the following cases:

(1) Where the holder is any person domiciled in this state, or is a government or governmental subdivision or agency located in this state.

(2) Where the holder is any person engaged in or transacting business in this state, although not domiciled in this state.

(3) Where the property is tangible personal property and is held in this state.

(c) In any case where no court of this state can obtain jurisdiction over the holder, the State Controller may bring an action in any federal or state court with jurisdiction over the holder.

Comment. Section 1572 is designed to clarify the circumstances under which the State Controller may sue in the courts of this state or another state or in the federal courts to enforce compliance with the provisions of this chapter. The section generally requires the State Controller to proceed in the California courts unless the California courts cannot obtain jurisdiction over the holder.

§ 1573. Agreements with other states

SEC. 43. Section 1573 is added to the Code of Civil Procedure, to read:

1573. The State Controller may enter into an agreement with an official of another state to provide information needed to permit the other state to determine unclaimed property it may be entitled to escheat if the official of the other state agrees to provide this state with information needed to permit this state to determine unclaimed property it may be entitled to escheat. The State Controller may, by regulation, require the reporting of information needed to permit him to comply with agreements made pursuant to this section and may, by regulation, prescribe the form, including verification, of the information to be reported and the times for filing such reports.

Comment. Persons domiciled in this state may be in possession of property subject to escheat under the laws of another state; yet that state may be unable to secure jurisdiction over the holder to compel the reporting and delivery of the escheated property. Conversely, persons domiciled in other states may hold property subject to escheat under California law, yet California may have no means to compel the reporting and delivery of such property.

Section 1573 permits the State Controller to make agreements with officials of other states whereby he and the other officials agree to furnish information obtained from holders within their jurisdiction as to property that may be subject to escheat by the other state.

Section 1573 authorizes the State Controller, by regulation, to require reports from California holders so that he can furnish the infor-

§ 1573

mation required by the agreements with officials of the other states. By making the information received available to the officials of the other states, the State Controller can enable the other states to assert their escheat claims directly or to request this state to enforce their escheat claims pursuant to Section 1573. Through similar cooperation, this state may obtain escheated property from holders in other states either by proceeding directly or by requesting the assistance of other states pursuant to Section 1574.

§ 1574. Action on behalf of another state

SEC. 44. Section 1574 is added to the Code of Civil Procedure, to read:

1574. At the request of any other state, the Attorney General of this state is empowered to bring an action in the name of such other state in any court of this state or federal court within this state, to enforce the unclaimed property laws of such other state against a holder in this state of property lawfully subject to escheat by such other state, if all of the following exist:

(a) The courts of such other state cannot obtain jurisdiction over the holder.

(b) Such other state has agreed to bring actions in the name of this state at the request of the Attorney General of this state, to enforce the provisions of this chapter against any person in such other state believed by the State Controller of this state to hold property subject to escheat under this chapter, where the courts of this state cannot obtain jurisdiction over such person.

(c) The other state has agreed to pay reasonable costs incurred by the Attorney General of this state in bringing an action under this section at the request of such other state.

Comment. Section 1574 authorizes the Attorney General to sue in this state to enforce compliance with the unclaimed property laws of another state. Under the provisions of Section 1574, however, the Attorney General may do so only if the other state will similarly act to enforce the unclaimed property laws of California against holders of unclaimed property to which California is entitled.

§ 1575. Action by officer of another state on behalf of this state

SEC. 45. Section 1575 is added to the Code of Civil Procedure, to read:

1575. (a) If a person in another state is believed by the State Controller of this state to hold property subject to escheat under this chapter and the courts of this state cannot obtain jurisdiction over such person, the Attorney General of this state may request an officer of such other state to bring an action in the name of this state to enforce the provisions of this chapter against such person.

(b) This state shall pay all reasonable costs incurred by any other state in any action brought by such other state at the request of the Attorney General of this state under this section. The Controller may agree to pay to any state bringing such an action a reward of not exceeding fifteen percent of the value, after deducting reasonable costs, of any property recovered for the state as a direct or indirect result of such action. Any costs or rewards paid pursuant to this section shall be paid from the abandoned property account in the Unclaimed Property Fund and shall not be deducted from the amount that is subject to be claimed by the owner in accordance with this chapter.

Comment. Section 1575 authorizes this state to request the officials of another state to bring action to recover property escheated to California under the provisions of this chapter. In order to provide an incentive for the recovery of such escheated property, the section authorizes the payment of a fifteen percent reward for the recovery of escheated property. This reward, however, is not paid from the escheated property itself. It would be inappropriate to charge the owner of the property with this fifteen percent in the event he should later recover this property, for California's claim to the property is made for the benefit of the state rather than the owner.

§ 1576. Penalties

SEC. 46. Section 1524 of the Code of Civil Procedure is renumbered and amended to read:

~~1524.~~ 1576. (a) Any person who wilfully fails to render any report or perform other duties required under this chapter shall be punished by a fine of ten dollars (\$10) for each day such report is withheld, but not more than one thousand dollars (\$1,000).

(b) Any person who wilfully refuses to pay or deliver abandoned escheated property to the State Controller as required under this chapter shall be punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisonment for not more than six months, or both ~~, in the discretion of the court~~.

Comment. Section 1576 is substantially the same as former Section 1524.

§ 1580

ARTICLE 8. MISCELLANEOUS

SEC. 47. A new article heading is added immediately preceding Section 1525 of the Code of Civil Procedure, which section is renumbered as Section 1580 by this act, such new article heading to read:

ARTICLE 8. MISCELLANEOUS

§ 1580. Rules and regulations

SEC. 48. Section 1525 of the Code of Civil Procedure is renumbered and amended to read:

~~1525.~~ 1580. (a) The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

(b) The Controller shall designate by regulation:

(1) Each state that does not provide by law for the escheat of unclaimed or abandoned intangible property of any kind described in Section 1511 to 1518, inclusive.

(2) Each state that is a party to the Unclaimed Property Compact (Section 1620).

Comment. Subdivision (a) of Section 1580 is the same as former Section 1525. Subdivision (b) has been added so that holders may have a source of information concerning what property is subject to escheat to this state under Section 1510 and the decision of the United States Supreme Court in Texas v. New Jersey, 379 U.S. 674 (1965).

§ 1581

§ 1581. Records concerning travelers checks and money orders

SEC. 49. Section 1581 is added to the Code of Civil Procedure,
to read:

1581. A business organization that issues any travelers check
or money order in this state shall maintain a record indicating
whether or not the last known address of the person to whom the
travelers check or money order is issued is in this state.

§ 1582. Validity of contracts to locate property

SEC. 50. Section 1527 of the Code of Civil Procedure is renumbered and amended to read:

~~1527.~~ 1582. No agreement entered within nine months after the date of filing report under subdivision (c) of Section 1510(a) 1530 shall be is valid if any person thereby undertakes to locate property reported under Section 1519 1530 for a fee or other compensation exceeding 10 percent of the value of recoverable property unless the agreement is in writing and signed by the owner and discloses the nature and value of the property and the name and address of the holder thereof, as such facts are so reported . ; provided, ~~that~~ Nothing herein in this section shall be construed to prevent an owner from asserting, at any time, that any agreement to locate property is based upon an excessive or unjust consideration.

Comment. Section ~~1582~~ is substantially the same as former Section 1527.

Civil Code § 3081 (repealed)

SEC. 51. Section 3081 of the Civil Code is repealed.

~~3081. Any corporation engaged in the business of renting to the public safe deposit boxes may dispose of the unclaimed contents of the safe deposit boxes in the manner set forth in Sections 30a to 30r, inclusive, of the Bank Act.~~

Comment. Section 3081 is superseded by the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

§ 1604 (amended)

SEC. 52. Section 1604 of the Code of Civil Procedure is amended to read:

1604. (a) All unclaimed intangible property, together with all interest and other increments accruing thereto, is subject to delivery to this State if the last known address of the owner is in this State. If the last known address of an owner is in this State, any other owner's address which is unknown shall be presumed to be in this State. If the last known addresses of owners are in this State and in one or more other states, the addresses of other owners whose addresses are unknown shall be presumed to be within this State if the federal agency having custody of the unclaimed property initially acquired possession in this State. If the records of the United States do not disclose the address of any owner of unclaimed property, such address shall be presumed to be within this State if the federal agency having custody of such property initially acquired possession in this State. All addresses presumed to be within this State are presumed to be within the County of Sacramento. For the purposes of this chapter, it shall be presumed that the situs of unclaimed intangible property is in this State if the last known or presumed address of the owner is in this State.

(b) All unclaimed tangible property is subject to delivery to this State if the federal agency having custody of the unclaimed property initially acquired possession in this State.

Comment. Section 1604 has been modified to reflect the rules relating to the escheat of unclaimed property that were set forth by the United

§ 1604

States Supreme Court in Texas v. New Jersey, 379 U.S. 674 (1965). In accordance with the holding in that case, subdivision (a) provides that intangible property is subject to delivery to this state if the last known address of the owner is in this state. Subdivision (b) is based on the suggestion in that case that tangible property is subject to escheat to the state where the property is located.

§ 1614 (amended)

SEC. 53. Section 1614 of the Code of Civil Procedure is amended to read:

1614. Property received under this chapter shall be deposited or sold by the State Controller as though received under the ~~Uniform Disposition of Unclaimed Property Act~~ Chapter 7 (commencing with Section 1500) of this title . Property received under this chapter shall not be subject to claim within two years following the date upon which it is paid to or received by the state. Thereafter, claims shall be made in the manner provided in Chapter 7 of Title 10 of Part 3 of this code.

Comment. This is a technical, nonsubstantive amendment.

Savings clause

SEC. 54. This act does not affect any duty to file a report with the State Controller or any duty to pay or deliver property to the State Controller that arose prior to the effective date of this act under the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. Any such report or any such payment or delivery shall be made in accordance with the law in effect prior to the effective date of this act as if this act had not been enacted.

Comment. This act modifies the requirements for filing unclaimed property reports and delivering such property to the State Controller. It omits the provisions of former Section 1510(g), which prescribed the contents of the initial report to be filed under the Uniform Disposition of Unclaimed Property Act after it became effective on September 18, 1959. Section 54 is intended to make clear that the enactment of this act does not affect whatever obligation the provisions of the previous statute imposed upon persons who were subject to its terms in regard to filing reports and paying or delivering property to the State Controller.

II. UNCLAIMED PROPERTY COMPACT

An act to add Chapter 9 (commencing with Section 1620) to Title 10 of Part 3 of the Code of Civil Procedure, relating to the Unclaimed Property Compact.

The people of the State of California do enact as follows:

SECTION 1. Chapter 9 (commencing with Section 1620) is added to Title 10 of Part 3 of the Code of Civil Procedure, to read:

CHAPTER 9. UNCLAIMED PROPERTY COMPACT

1620. The Unclaimed Property Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

UNCLAIMED PROPERTY COMPACT

ARTICLE I

Purposes

It is the purpose of this compact and of the states party hereto:

- (a) To eliminate the risks and inconvenience to which holders of unclaimed property may be subject by reason of actual or possible claims thereto or to the custody thereof by more than one state.
- (b) To provide a uniform and equitable set of standards for the determination of entitlement to receive, hold and dispose of unclaimed property.
- (c) To provide methods whereby the party states may co-operate with each other in the discovery and taking possession of unclaimed property.

ARTICLE II

Definitions

As used in this compact, the term:

- (a) "Unclaimed property" means any property which under the laws of the appropriate state is subject to delivery to that state for its use or custody by reason of its having been unclaimed or abandoned for such period as the laws of that state may provide.

(b) "Holder" means any obligor or any individual, business association, government or subdivision thereof, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity having possession, custody or control of unclaimed property.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

ARTICLE III

Determination of Entitlement to Unclaimed Property

(a) Only the state in which unclaimed real property or unclaimed tangible personal property is located shall be entitled to receive, hold and dispose of such property in accordance with its laws.

(b) In the case of unclaimed property the disposition of which is not determined by the application of paragraph (a) of this Article, and the holder of which property is subject to the jurisdiction of only one state, that state and no other shall be entitled to receive, hold and dispose of such unclaimed property in accordance with its laws.

(c) In respect of all unclaimed property the disposition of which is not determined by the applications of paragraphs (a) or (b) of this Article, entitlement shall be determined as follows:

1. The state in which is located the last known address of the person entitled to the property shall be entitled to receive, hold and dispose of the same in accordance with its laws. The last known address shall be presumed to be that shown by the records of the holder.

2. If the identity of the person entitled is unknown; if no address for the person sufficient to meet the requirements of subparagraph 1 of this paragraph is known; or if the laws of the state of last known address do not subject the property in question to taking, the state under whose laws the holder is incorporated (if the holder is a corporation) or organized (if the holder is an association or artificial entity other than a corporation), or the state where the holder is domiciled (if the holder is a natural person) shall be entitled to receive, hold and dispose of the same in accordance with its laws. If the holder is incorporated or organized under the laws of more than one party state, such party states shall be entitled to take equal shares of the property covered by this paragraph. In such event, each shall bear a proportionate share of the costs of the taking.

3. If the disposition of any unclaimed property is not determined by application of any preceding provision of this Article,

the state in which is located the office of the holder making the largest total disbursements within its immediately preceding fiscal year shall be entitled to receive, hold and dispose of the property in accordance with its laws.

4. Whenever unclaimed property has been taken by a party state in accordance with this paragraph, within one year from the taking of such property, or within one year from the earliest time at which another party state would have been entitled to take the property in question pursuant to its unclaimed property laws, whichever date is later, any party state shall be entitled to establish the identity and last known address of an entitled person previously thought to be unknown, or to establish a later known address for an entitled person. Upon such establishment, and on the basis thereof a party state shall upon demand be entitled to receive the property from the state initially taking the same and to hold and dispose of it in accordance with its laws. This subparagraph shall not apply to a claim made by a state under a statute enacted subsequent to the time when the initial state took the property.

ARTICLE IV

Cooperation

The party states pledge to each other faithful cooperation in the administration of their respective unclaimed property laws. To this end, a party state shall, upon the request of any other party state, make available to any such state any information which it may have in its possession by reason of its administration of its own unclaimed property laws, unless disclosure thereof is expressly prohibited by the laws of the party state of which the request is made. Unless the party states concerned otherwise agree, the party state making a request for information pursuant to this Article shall be entitled to receive it only by bearing such costs as may be involved in furnishing the information requested.

ARTICLE V

State Laws Unaffected in Certain Respects

Each party state may enact and continue in force any statute not in conflict with this compact and may employ the escheat, custodial, or any other principle in respect of unclaimed property.

ARTICLE VI

Finality

Except as provided in Article III (c) 4:

1. No unclaimed property escheated or received into the custody of a party state, prior to February 1, 1965, pursuant to its laws shall be subject to the subsequent claim of any other party state, and the enactment of this compact shall constitute a waiver by the enacting state of any such claim.
2. No unclaimed property escheated or received into the custody of a party state on or after February 1, 1965 shall be subject to the subsequent claim of any other party state, and the enactment of this compact shall constitute a waiver by the enacting state of any such claim: provided that such taking was consistent with the provisions of this compact.

ARTICLE VII

Extent of Rights Determined

The only rights determined by this compact shall be those of the party states. With respect to any non-party state, an assertion of jurisdiction to receive, hold or dispose of any unclaimed property made by a party state shall be determined in the same manner and on the same basis as in the absence of this compact. In any situation involving multiple claims by states, both party and non-party, the standards contained in this compact shall be used to determine entitlement only as among the party states. With respect to the claims of any non-party state any controversy shall be determined in accordance with the law as it may be in the absence of this compact. The enactment of this compact shall not constitute a waiver of any claim by a party state as against a non-party state.

ARTICLE VIII

Entry Into Force and Withdrawal

This compact shall enter into force and become binding as to any state when it has enacted the same into law. Any party state may withdraw from the compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive head of each other party state. Any unclaimed property which a state shall have received, or which it shall have become entitled to receive by operation of this compact during the period when such state was party hereto shall not be affected by such withdrawal.

ARTICLE IX

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

1621. The State Controller may enter into any agreements necessary or appropriate to cooperate with another state or states and sharing of costs pursuant to Article III(c)2 of the compact, or for the assumption or bearing of costs pursuant to Article IV thereof.

1622. With reference to this state and as used in Article VIII of the compact, the term "executive head" means the Governor.

III. ESCHEAT OF DECEDENT'S PROPERTY

An act to amend Section 231 of, to add Sections 232, 233, 234, 235, and 236 to, to amend and renumber the heading of Article 2 (commencing with Section 250) of Chapter 2 of Division 2 of, and to add a new article heading immediately preceding Section 231 of, the Probate Code, relating to escheat.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 2 (commencing with Section 250) of Chapter 2 of Division 2 of the Probate Code is renumbered and amended to read:

ARTICLE II 3 . GENERAL PROVISIONS

SEC. 2. A new article heading is added immediately preceding Section 231 of the Probate Code, to read:

ARTICLE 2. ESCHEAT OF DECEDENTS' PROPERTY

§ 231. Escheat of decedent's property

SEC. 3. Section 231 of the Probate Code is amended to read:

231. (a) If ~~the~~ a decedent , whether or not he was domiciled in this state, leaves no one to take his estate or any portion thereof by testate succession, and no one other than a government or governmental subdivision or agency to take his estate or a portion thereof by intestate succession, under the laws of this state or of any other jurisdiction , the same escheats to the state-as-of at the date time of the death of the decedent in accordance with this article .

(b) Property passing to the state under this ~~section~~ article , whether held by the state or its officers, is subject to the same charges and trusts to which it would have been subject if it had passed by succession, and is also subject to the provisions of Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure relating to escheated estates.

(c) Notwithstanding any ~~other~~ section or provision of this code or any other statute, rule, regulation, law , or decision, moneys held by a trust funds for the purposes of providing health and welfare, pension, vacation, severance, supplemental unemployment insurance benefits , or similar benefits shall not pass to the state or escheat to the state , but such moneys go to the trust fund holding them .

Comment. Subdivision (a) has been revised to indicate that the rules for determining whether a decedent's property has escheated to this state are set forth in the remainder of the article. The words, "whether or not he was domiciled in this state," have been added to make it clear that this article prescribes the rules governing the escheat of property belonging to nondomiciliary decedents as well as to domiciliaries.

Under the law of some jurisdictions, property does not escheat in the sense that it does under the law of California and most Anglo-American jurisdictions. Instead, the government inherits the property when there is no collateral kindred of the decedent within a specified degree of kinship. See Estate of Maldonado, [1954] P. 223, [1953] 2 All. E.R. 300 (C.A.). The revised language of subdivision (a) makes it clear that the claim of such a jurisdiction will not prevent the property of a decedent from escheating under the law of California.

The words added at the end of subdivision (c) are intended to be clarifying. The section did not indicate previously what disposition should be made of the unescheated property.

§ 232. Real property

SEC. 4. Section 232 is added to the Probate Code, to read:

232. Real property located within this state escheats to this state in accordance with Section 231.

Comment. Section 232 continues the preexisting California law.

§ 233. Tangible personal property customarily kept in this state

SEC. 5. Section 233 is added to the Probate Code, to read:

233. All tangible personal property owned by the decedent, wherever located at the decedent's death, that was customarily kept in this state prior to his death, escheats to this state in accordance with Section 231.

Comment. Section 233 provides for the escheat of tangible personal property that the decedent customarily kept in California prior to his death. The property described in the section escheats to California even though it may have been temporarily removed from California at the time of the decedent's death.

Some examples of the kind of property referred to by the section are: property usually kept at his residence by a resident of California; property usually kept at a summer home in California by a nonresident of California; and property used in connection with a business located in California. The section does not cover tangible personal property brought to California temporarily. However, the length of time that the property was in California prior to the decedent's death is not necessarily determinative of its customary location. If a decedent had recently moved to California and established a permanent residence here, the personal property usually kept at the residence would be customarily kept within this state even though it had been customarily so kept for only a brief period of time.

§ 234. Tangible personal property subject to administration in this state

SEC. 6. Section 234 is added to the Probate Code, to read:

234. (a) Subject to subdivision (b), all tangible personal property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under Division 3 (commencing with Section 300) of this code escheats to this state in accordance with Section 231.

(b) The property described in subdivision (a) does not escheat to this state but goes to another jurisdiction if that jurisdiction claims the property and establishes that:

(1) That jurisdiction is entitled to the property under its laws;

(2) The decedent customarily kept the property in that jurisdiction prior to his death; and

(3) This state has the right to escheat and take tangible property being administered as part of a decedent's estate in that jurisdiction, if the decedent customarily kept the property in this state prior to his death.

Comment. Subdivision (a) of Section 234 provides that all tangible personal property that is administered in this state as part of a decedent's estate escheats to this state if the owner died without heirs. Subdivision (a) covers all tangible personal property, whether temporarily located in the state or not. It may also apply to tangible personal property that was brought into the state after the decedent's death.

Subdivision (a) is subject to subdivision (b) so that a state where the property was usually kept by the decedent may claim the property if it wishes to do so. However, the conditions of subdivision (b) are intended to make clear that California will not surrender any property to the state where it was usually located unless that state would recognize California's claim to escheat property found in that state under the provisions of Section 233.

Subdivision (b) provides that the state claiming the property must establish the matters listed. Thus, it must be able to demonstrate that, under its statutory or decisional law California has a reciprocal right to escheat property located in that state. If it cannot show that California has such a reciprocal right--if its law is inconclusive--it has not established the matters required by subdivision (b) and the property escheats to California under subdivision (a).

§ 235. Intangible personal property of decedent domiciled in this state

SEC. 7. Section 235 is added to the Probate Code, to read:

235. All intangible property owned by the decedent escheats to this state in accordance with Section 231 if the decedent was domiciled in this state at the time of his death.

Comment. Section 235 provides for the escheat of all intangible property owned by a decedent who died domiciled in this state. The property referred to by the section consists of all of decedent's intangible assets, including for example, debts owed to the decedent, bank accounts, promissory notes, shares of corporate stock, dividends, wage claims, and beneficial interests in trusts.

Section 235 contains no limitation on the intangible property owned by a California domiciliary that escheats under its provisions. Wherever the obligor may be located, wherever the obligation may have been incurred, such property escheats to this state because the decedent owner was a domiciliary of this state.

§ 236. Intangible personal property subject to administration in this state

SEC. 8. Section 236 is added to the Probate Code, to read:

236. (a) Subject to subdivision (b), all intangible property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under Division 3 (commencing with Section 300) of this code escheats to this state whether or not the decedent was domiciled in this state at his death.

(b) Such property does not escheat to this state but goes to another jurisdiction if that jurisdiction claims the property and establishes that:

(1) That jurisdiction is entitled to the property under its laws;

(2) The decedent was domiciled in that jurisdiction at his death; and

(3) This state has the right to escheat and take intangible property being administered as part of a decedent's estate in that jurisdiction, if the decedent was domiciled in this state at his death.

Comment. Subdivision (a) of Section 236 provides that all intangible assets of a decedent who died without heirs that are subject to administration in this state escheat to this state. Under this provision, even if decedent was domiciled in another state, his California bank account escheats to California.

Subdivision (a) is subject to subdivision (b) so that the state of the decedent's domicile may claim the property if it wishes to do so. However, the conditions of subdivision (b) are intended to make clear that California

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will not relinquish any of such property to the state of domicile unless that state would recognize California's claim to escheat intangibles subject to that state's jurisdiction under the provisions of Section 235.

Subdivision (b) provides that the state claiming the property must establish the matters listed. Thus, it must be able to demonstrate that, under its statutory or decisional law California has a reciprocal right to escheat intangibles subject to its jurisdiction. If it cannot show that California has such a reciprocal right--if its law is inconclusive--it has not established the matters required by subdivision (b) and the property escheats to California under subdivision (a).