

**STATE OF CALIFORNIA**

**CALIFORNIA LAW  
REVISION COMMISSION**

**RECOMMENDATION**

*relating to*

**Escheat**

**September 1967**

**CALIFORNIA LAW REVISION COMMISSION  
School of Law  
Stanford University  
Stanford, California 94305**

# THE CALIFORNIA LAW REVISION COMMISSION

## COMMISSION MEMBERS

RICHARD H. KEATINGE  
*Chairman*

SHO SATO  
*Vice Chairman*

ALFRED H. SONG  
*Member of the Senate*

F. JAMES BEAR  
*Member of the Assembly*

JOSEPH A. BALL  
*Member*

JAMES R. EDWARDS  
*Member*

JOHN R. McDONOUGH  
*Member*

HERMAN F. SELVIN  
*Member*

THOMAS E. STANTON, JR.  
*Member*

GEORGE H. MURPHY  
*Ex Officio*

## COMMISSION STAFF

### Legal

JOHN H. DEMOULLY  
*Executive Secretary*

CLARENCE B. TAYLOR  
*Assistant Executive Secretary*

TED W. ISLES  
*Senior Attorney*

GORDON E. MCCLINTOCK  
*Student Legal Assistant*

### Administrative-Secretarial

ANNE SCHMIDT-WEYLAND  
*Administrative Assistant*

VIOLET S. HARJU  
*Secretary*

## NOTE

This pamphlet begins on page 1001. The Commission's annual reports and its recommendations and studies are published in separate pamphlets which are later bound in permanent volumes. The page numbers in each pamphlet are the same as in the volume in which the pamphlet is bound. The purpose of this numbering system is to facilitate consecutive pagination of the bound volumes. This pamphlet will appear in Volume 8 of the Commission's REPORTS, RECOMMENDATIONS, AND STUDIES.

This 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.

STATE OF CALIFORNIA

# CALIFORNIA LAW REVISION COMMISSION

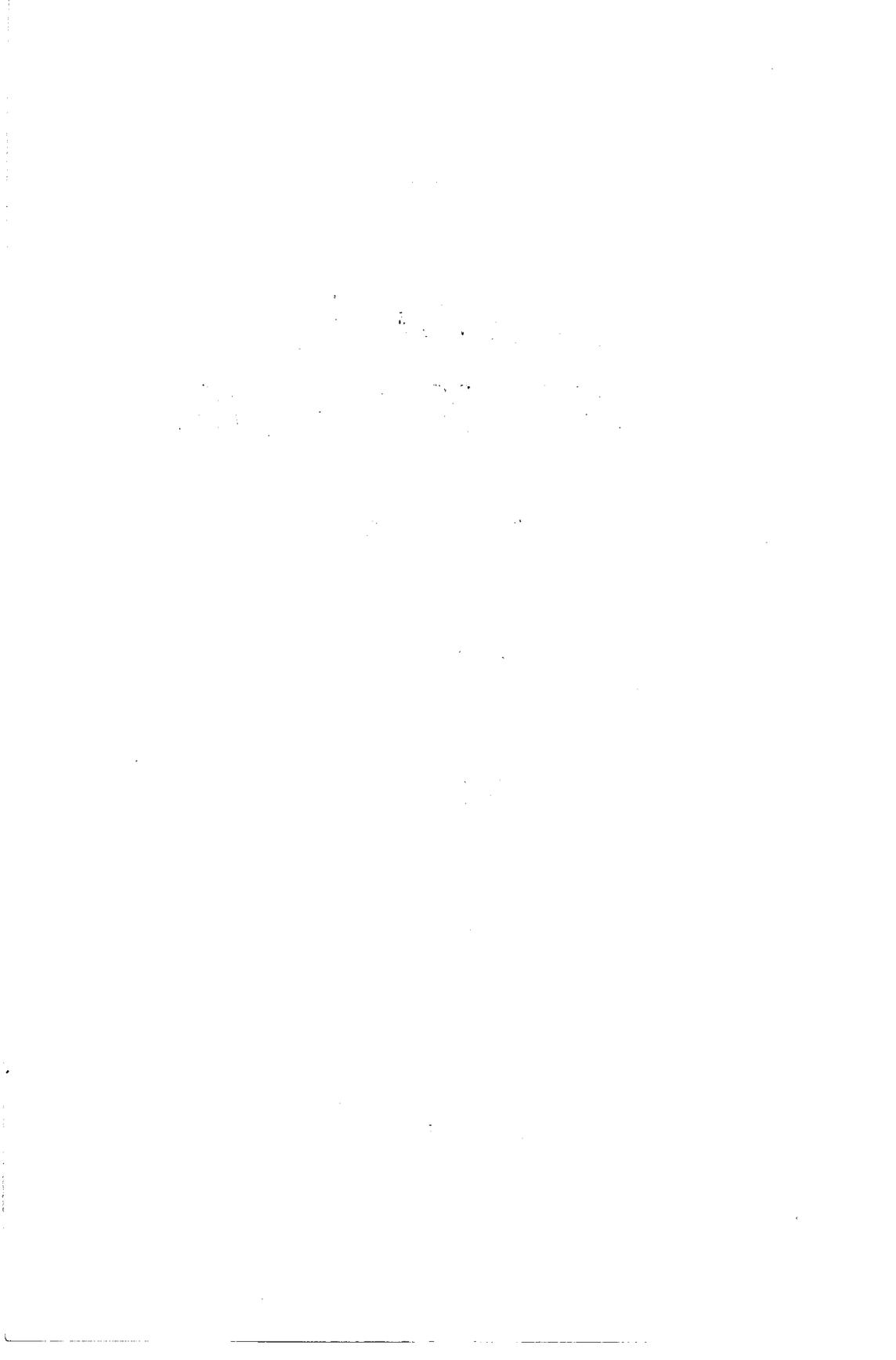
RECOMMENDATION

*relating to*

**Escheat**

**September 1967**

CALIFORNIA LAW REVISION COMMISSION  
School of Law  
Stanford University  
Stanford, California 94305



## CALIFORNIA LAW REVISION COMMISSION

SCHOOL OF LAW  
STANFORD UNIVERSITY  
STANFORD, CALIFORNIA 94305



RICHARD H. KEATINGE  
*Chairman*  
SHO SATO  
*Vice Chairman*  
SENATOR ALFRED H. SONG  
ASSEMBLYMAN F. JAMES BEAR  
JOSEPH A. BALL  
JAMES R. EDWARDS  
JOHN R. McDONOUGH  
HERMAN F. SELVIN  
THOMAS E. STANTON, JR.  
GEORGE H. MURPHY  
*Ex Officio*

September 1, 1967

To HIS EXCELLENCY, RONALD REAGAN  
*Governor of California* and  
THE LEGISLATURE OF CALIFORNIA

The California Law Revision Commission was directed by Resolution Chapter 42 of the Statutes of 1956 to make a study of the law relating to escheat.

The Commission herewith submits its recommendation relating to this subject. For a study relating to the disposition of unclaimed property which the Commission found useful in preparing this recommendation, see *A State Statute for the Disposition of Unclaimed Property*, 3 HARV. J. LEG. 135 (1965).

Respectfully submitted,  
RICHARD H. KEATINGE  
Chairman



## CONTENTS

	Page
INTRODUCTION .....	1009
ESCHEAT OF UNCLAIMED PROPERTY .....	1009
Background .....	1009
Recommendations .....	1010
ESCHEAT OF PROPERTY UPON THE OWNER'S DEATH WITHOUT HEIRS .....	1015
Background .....	1015
Recommendations .....	1016
PROPOSED LEGISLATION .....	1018
I. UNCLAIMED PROPERTY STATUTE (all sections are in the Code of Civil Procedure) .....	1018
§ 1300. (amended) .....	1018
CHAPTER 7. UNCLAIMED PROPERTY LAW .....	1020
Article 1. Short Title; Definitions; Application .....	1020
§ 1500. Short title .....	1020
§ 1501. Definitions .....	1020
§ 1502. Application of chapter .....	1023
§ 1503. Special provisions concerning property not subject to former law .....	1024
§ 1504. Property escheated by another state .....	1025
§ 1505. Savings clause .....	1026
§ 1506. Continuation of existing law .....	1027
Article 2. Escheat of Unclaimed Personal Property .....	1028
§ 1510. General conditions for escheat of intangible personal property .....	1028
§ 1511. Presumption relating to travelers checks and money orders .....	1029
§ 1513. Property held by banking or financial organi- zations; travelers checks and money orders issued by business associations .....	1030
§ 1514. Contents of safe deposit boxes .....	1032
§ 1503. (repealed) .....	1032
§ 1515. Funds held by life insurance corporations .....	1033
§ 1516. Dividends and distributions of business asso- ciations .....	1034
§ 1505. (repealed) .....	1035
§ 1517. Property distributable in dissolution or liqui- dation .....	1035
§ 1518. Property held by fiduciaries .....	1036
§ 1519. Property held by a government or govern- mental subdivision or agency .....	1036
§ 1520. Other property held for another person .....	1037
§ 1509. (repealed) .....	1038

## CONTENTS—Continued

	Page
Article 3. Identification of Escheated Property .....	1038
§ 1530. Report of escheated property .....	1038
§ 1531. Notice and publication of lists of unclaimed property .....	1041
§ 1532. Payment and delivery of property to State Controller .....	1043
§ 1533. Controller may reject tangible personal prop- erty .....	1044
Article 4. Payment of Claims .....	1044
§ 1540. Claim by owner for escheated property .....	1044
§ 1518. (repealed) .....	1045
§ 1519. (repealed) .....	1045
§ 1541. Judicial action upon determination .....	1046
§ 1542. Right of another state to recover escheated property .....	1046
Article 5. Administration of Unclaimed Property .....	1047
§ 1560. Relief from liability upon payment or delivery .....	1048
§ 1561. Indemnification of holder after payment or delivery .....	1049
§ 1562. Income accruing after payment or delivery .....	1050
§ 1563. Sale of escheated property .....	1050
§ 1564. Disposition of funds .....	1051
§ 1565. Disposition of property having no commercial value .....	1052
§ 1566. Certain actions against state and state officials barred .....	1052
Article 6. Compliance and Enforcement .....	1053
§ 1570. Limitations as not affecting escheat or duty to file report or to pay or deliver escheated prop- erty .....	1053
§ 1571. Examination of records .....	1054
§ 1523. (repealed) .....	1054
§ 1572. Actions to enforce compliance .....	1055
§ 1573. Agreements with other states .....	1055
§ 1574. Action on behalf of another state .....	1056
§ 1575. Action by officer of another state on behalf of this state .....	1056
§ 1576. Penalties .....	1057
Article 7. Miscellaneous .....	1057
§ 1580. Rules and regulations .....	1058
§ 1581. Records concerning travelers checks and money orders .....	1058
§ 1582. Validity of contracts to locate property .....	1059
§ 1604. (amended) .....	1059
§ 1614. (amended) .....	1060
Severability clause .....	1060
Operative date .....	1061





# RECOMMENDATION OF THE CALIFORNIA LAW REVISION COMMISSION

*relating to*

## Escheat

### INTRODUCTION

Although the common law concept was somewhat different, escheat is now generally considered to be the right of the government to claim property that has no apparent owner. Under the modern concept, two classes of property usually are subject to escheat. First, many states claim property that is abandoned or unclaimed by its owner. Second, virtually all states claim property that belonged to a person who dies without heirs.

The California statutes provide for the escheat of all property in the second category and for the escheat of certain classes of property in the first category. However, as a result of recent court decisions, the existing statutes are inadequate to deal with the problems that exist in this field. The principal difficulty is that the existing statutes assert claims that California cannot constitutionally enforce, but they do not assert all of the claims that California constitutionally could enforce.

### ESCHEAT OF UNCLAIMED PROPERTY

#### Background

In 1959, a revised form of the Uniform Disposition of Unclaimed Property Act was enacted in California. 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 and subsequent delivery of various kinds of unclaimed personal property to the State Controller. It replaced a less comprehensive statute that provided for the escheat of certain 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 the contents of safe deposit boxes. It provides generally that, if the owner of such property has failed to claim it for a specified period of time, the holder<sup>1</sup> is required to report this

<sup>1</sup> "Holder" is used in this recommendation to refer to the debtor or obligor of intangible property because that is the term used and defined in the Uniform Act. Technically, the term is partially inaccurate because intangible property consists of debts and obligations that are "owed" rather than "held" as is the case with tangible property.

fact to the State Controller. Subsequently, and after due notice, the property is transferred to the custody of the State Controller who then holds it subject to the claim of the owner. The coverage of the statute is limited to property that is held or owed by persons doing business in this state or otherwise subject to the jurisdiction of this state.

After enactment of the California statute, the Supreme Court of the United States decided *Texas v. New Jersey*, 379 U.S. 674 (1965), holding that only one state may escheat intangible personal property even though the holder of the property may be subject to the jurisdiction of several states.<sup>2</sup> The court ruled that (1) the state of the last known address of the owner as shown by the records of the holder may escheat intangible property and (2) if the records do not show an address for the owner, the property may be escheated by the state where the holder is domiciled. In cases falling in the second category, however, if another state proves that the last known address of the owner actually was 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 in which the owner had his last known address (as shown by the records of the holder) does not provide for the escheat of unclaimed property, the state where the holder is domiciled may escheat the property subject to a claim of the former state if its law later provides for the escheat of such property. These rules have made California's statute obsolete because it is based upon this state's jurisdiction over the holder.

### Recommendations

The Commission makes the following recommendations relating to the escheat of unclaimed property:

1. *The California unclaimed property statute should be revised to conform to the holding in Texas v. New Jersey.* Under *Texas v. New Jersey*, California may not escheat certain unclaimed property held by persons subject to its jurisdiction (which the statute now purports to cover), but it could escheat certain other unclaimed property held by persons not subject to its jurisdiction (which the statute does not now cover). To remedy this situation, the California statute should be revised to conform its application to the holding in *Texas v. New Jersey*.

For the revenue implications of this type of legislation, see W. Va. Joint Comm. on Government and Finance, Memorandum from Legislative Services Re: HCR 30 (1965) Escheat Property (September 27, 1965).

2. *Any sum payable on a travelers check or money order sold in California should escheat to this state if the name of the apparent owner or his last known address is not shown by the records of the issuer.* In *Texas v. New Jersey*, the Supreme Court dealt with the disposition of numerous small obligations of the Sun Oil Company, such as those for wages, goods and services, royalties, and dividends. In most cases, a check had been issued to the creditor but had not been

<sup>2</sup> See also *Western Union Tel. Co. v. Pennsylvania*, 368 U.S. 71 (1961).

cash. The opinion indicates that the creditor was identified in each instance; but in many instances the records of the Sun Oil Company did not reveal the creditor's address.

The issuing company pays a travelers check or money order on presentation of the original instrument. It is anticipated that the instrument will be negotiated—perhaps several times—before it is presented for payment. Hence, the issuing company normally does not retain a permanent record of the identity and address of the purchaser.<sup>3</sup> For this reason, it usually is impossible to apply literally to such instruments the basic escheat rule stated in *Texas v. New Jersey* (escheat to the state of the obligee's last known address as shown on the obligor's records). Of course, the alternative rule provided by *Texas v. New Jersey* (escheat by the state of the obligor's domicile if the records do not show the obligee's last known address) could be applied to such obligations. But, as is implicit in the Supreme Court's opinion, application of that alternative rule tends to frustrate one of the apparent purposes of the basic escheat rule which is to distribute escheated obligations, insofar as possible, among the states in proportion to the commercial activity of their residents. For that reason, in cases where the obligor has no record address for the obligee, *Texas v. New Jersey* accords a lower escheat priority to the obligor's state of domicile than to the state of actual last known address of the obligee.

To provide an appropriate rule where no record is kept, the Commission recommends that the sum payable on a travelers check or money order escheat to California if the instrument was purchased here and the name of the apparent owner or his address is not shown by the records of the issuing company. Conversely, if a travelers check or

<sup>3</sup> The Commission is advised that, in the case of telegraphic money orders, Western Union Telegraph Company has for the last several years retained records that disclose the identity and address of both the sender and the payee.

The usual telegraphic money order transaction can be described as follows. The sender enters the office at the point of origin, fills out a money order application and hands the application to the clerk who calculates the charges and collects the charges plus the principal amount of the money order from the sender. The clerk then prepares a receipt which is given to the sender. The clerk or other employee transmits a telegraphic message to the company's money order office located nearest to the payee, directing that office to pay the principal amount of the money order to the payee in the form of a negotiable draft. On receipt of the message, the office of destination prepares a money order draft payable to the named payee, together with a money order notice, which notice is then delivered to the payee. Upon calling at the office and satisfactorily identifying himself, the payee is given the money order draft, countersigned in his presence. The payee endorses the draft, hands it back and receives cash, or, if he prefers, he may take the draft away with him to make such use thereof as he sees fit, in which case he is required to sign a receipt for the draft. If the payee cannot be located for the delivery of the money order notice, or if he fails to call for the draft within 72 hours, the office of destination transmits a message to the office of origin advising the latter of the reasons for nonpayment. The office of origin then sends a notice to the sender and, when the sender calls at the office, he receives a draft which he may endorse and cash immediately at the office or, if he prefers, may carry away with him. See *Record, Western Union Tel. Co. v. Pennsylvania, Supreme Court of the United States, October Term, 1960, No. 543 (Filed Nov. 25, 1960), pp. 17-18.*

The Commission has been advised by Western Union Telegraph Company that, under the applicable tariffs of the company as they now read, if no negotiable money order draft has been delivered to the payee, the sender is the apparent owner of sums left in the hands of the company. However, in the opinion of Western Union, where a money order draft has been issued to the payee, the question as to whether the sender or the payee is the apparent owner of sums left in the hands of the company remains unresolved.

money order of a California corporation is purchased in another state, California should not escheat the unclaimed sum due on the instrument unless (1) the issuing company has a record showing the name of the apparent owner and an address in this state, or (2) the state of issuance does not provide for its escheat.

The recommended rule will be administratively convenient because a record of the state of purchase is a simple one to make and retain; for example, the record could be a letter designation in the serial number of the instrument. The rule thus is consistent with the express purpose of *Texas v. New Jersey* to achieve clarity, certainty, and ease of administration. Those companies that desire to avoid application of the rule may do so by maintaining a record of the names and addresses of the apparent owners of the instruments they issue, thereby making it possible to apply the basic escheat rule of *Texas v. New Jersey* and assuring California of its interest in the funds under that rule. The recommended rule would distribute the escheat of funds due on travelers checks and money orders ratably among the states in proportion to the commercial activities of their residents (the volume of purchases of such instruments by their residents). Since most travelers checks and money orders are purchased near the purchasers' homes, the result reached would also approximate that reached under the basic rule promulgated in *Texas v. New Jersey* (unclaimed property should escheat to the state of the last known address of the last known owner).<sup>4</sup>

3. *Funds owed by a life insurance corporation under any life or endowment insurance policy or annuity contract to a person other than the insured or annuitant should escheat to this state if the name of the apparent owner or his last known address is not shown by the records of the insurance company and the records show that the last known address of the insured or annuitant was in California.* Section 1503 of the Code of Civil Procedure provides in part:

If a person other than the insured or annuitant is entitled to the funds [held and owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated] 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.

Notwithstanding the fact that this statutory rule conflicts with the basic escheat rule stated in *Texas v. New Jersey*, the Commission recommends that its substance be retained. The existing California rule deals with two narrow situations: (1) where no one is identified on the records of the life insurance corporation as the person entitled

<sup>4</sup>To hold the recommended rule invalid would be inconsistent with the apparent objective of *Texas v. New Jersey* to avoid concentrating the escheat of funds payable on travelers checks and money orders into those states where the issuing companies are incorporated. To avoid such concentration, states would be required to impose onerous record keeping requirements that would serve no useful purpose for the issuing companies. Accordingly, it appears likely that the recommended rule will be upheld by the Supreme Court.

to the funds that are subject to escheat and (2) where some person, other than the insured or annuitant, is identified on the records of the corporation as the person apparently entitled to the funds, but the corporation's records do not show that person's address. In both of these situations, the existing rule provides that the funds escheat to this state if the last address shown on the records of the corporation for the insured or annuitant is in this state. In other situations—where the insured or annuitant is the person entitled to the funds, where the corporation's records show an address for the person apparently entitled to the funds, where the corporation's records do not show an address for the insured or annuitant, etc.—the rule does not apply and the rules stated in *Texas v. New Jersey* would determine whether the funds escheat to California.

It is impossible to apply the basic escheat rule stated in *Texas v. New Jersey* (escheat to the state of the obligee's last known address as shown by the obligor's records) to the two situations covered by the existing California rule. The alternative rule provided by *Texas v. New Jersey* (escheat by the state of the obligor's domicile if the records do not show the obligee's last known address) could be applied, but application of that rule would tend to frustrate one of the apparent purposes of the rule announced by the Supreme Court, which was to distribute escheated obligations, insofar as possible, among the states in proportion to the commercial activity of their residents. The existing California rule, on the other hand, will further the policy of *Texas v. New Jersey* because it will tend to distribute the escheat of unclaimed insurance proceeds among the states in proportion to the amount of insurance held by their residents.

4. *The holder who delivers escheated property to California should be protected against double liability if another state claims the same property.* The Commission recognizes that *Texas v. New Jersey* can be interpreted to require the application of rules inconsistent with those proposed by recommendations 2 and 3. The Supreme Court may hold that, in every case, including those covered by these recommendations, only the state of the holder's domicile may escheat the amount due where the last known address of the apparent owner is not shown by the records of the holder. Accordingly, the Commission recommends that the State Controller be required to defend the holder against any claim brought by another state for sums paid to California in accordance with the unclaimed property statute and that California be required to indemnify the holder against liability upon any such claim. As a further protection, the legislation implementing these recommendations should operate prospectively from January 1, 1969.

5. *The existing exemption for unclaimed property held by certain utilities should be revised to limit it to property that is used or applied directly or indirectly for the benefit of ratepayers.* Under existing law, certain utilities—those providing communications, electric, water, steam, or gas service—are exempted from the unclaimed property statute and hence are not required to report and transfer unclaimed property to the State Controller. In the view of the Commission, this exemption is justified to the extent that the unclaimed property is actually used for the benefit of ratepayers, but the Commission

perceives no justification for treating a utility any differently than any other business association to the extent that the property reverts to the benefit of the stockholders. It recommends that the existing exemption be retained, but that it be limited to utilities whose rates are regulated by public agencies and to property that is used or applied, directly or indirectly, for the benefit of the ratepayers. The latter limitation would be met, of course, if proceeds from this source are taken into account in determining the rates charged by the utility.

The Commission has considered the proposal of representatives of various railroads that the utility exemption be extended to include railroads and other common carriers. The proposal to so extend the utility exemption was presented to the Legislature in 1965 but failed to become law.<sup>5</sup> The Commission is not persuaded as to the justification for such extension,<sup>6</sup> and accordingly the recommended legislation does not provide for the extension. Presumably, however, the proposal that the exemption be extended will be presented again to the Legislature by the interests directly concerned for resolution of the policy issue.

6. *Other revisions of the California unclaimed property statute should be made.* In addition to the revisions of the California unclaimed property statute necessary to conform the statute to the rules announced in *Texas v. New Jersey*, a number of clarifying changes and some substantive changes are needed to improve the administration of the statute. These changes are identified and explained in the comments appended to the recommended legislation.

7. *California should join in the Unclaimed Property Compact.* After the decision in *Texas v. New Jersey*, the National Association of Attorneys General proposed an Unclaimed Property Compact designed to resolve multistate claims which are not clearly settled by the principles declared in that decision, to settle the status of property that was unclaimed before the date of the decision (February 1, 1965), and to solve certain procedural problems created by the decision.

The compact would establish a reasonably complete set of rules for disposing of unclaimed property in cases of multistate claims, would bring order into this complex field, and would assist California, as well as other states, in securing unclaimed property to which it is entitled. California, therefore, should become a party to the compact.

<sup>5</sup> Assembly Bill No. 2895, 1965 Regular Session, would have extended the utility exemption to railroads and other common carriers engaged in interstate commerce. The bill passed the Legislature but was pocket vetoed by the Governor.

<sup>6</sup> The office of the State Controller has advised the Commission that, based on a survey, that office estimated in 1965 that income from railroads alone under the unclaimed property statute would approximate \$70,000 per year, of which about 95 percent would represent unclaimed wages.

## ESCHEAT OF PROPERTY UPON THE OWNER'S DEATH WITHOUT HEIRS

### Background

Probate Code Section 231 provides that, if a decedent leaves no one to take his property under the laws of this state, the property escheats to this state. In *Estate of Nolan*, 135 Cal. App.2d 16, 286 P.2d 899 (1955), the court held that Section 231 is subject to Section 946 of the Civil Code which provides:

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 bank account in California which belonged to a Montana domiciliary who died without heirs did not escheat to the state of California but instead was to be delivered to the Montana administrator. The holding of the court was broad enough to apply to all personal property, including tangible property physically located in California.

Other states have not been as solicitous of California's escheat claims as the California court was of Montana's claim in the *Nolan* case. Courts in Michigan and New York have held that bank accounts in those states that belonged to California domiciliaries who died without heirs escheated to their states rather than to California. See *In re Rapoport's Estate*, 317 Mich. 291, 26 N.W.2d 777 (1947); *In re Menschfreund's Estate*, 283 App. Div. 463, 128 N.Y.S.2d 738 (1954). As a result of these decisions, California surrenders its right to escheat personal property physically located in California or in the hands of a holder physically located in California when the owner dies domiciled elsewhere, but is powerless to escheat property located elsewhere that belonged to California domiciliaries. Thus, there is no reciprocity in this matter between California and other states.

The effect of the holding in *Texas v. New Jersey* on the results reached by the California, Michigan, and New York courts is uncertain. *Texas v. New Jersey* involved intangible personal property that was unclaimed. The owner of the property could not be located, but he might have been alive. The California, Michigan, and New York courts, on the other hand, were concerned with property that belonged to a known decedent. In each case, the administrator of the decedent's estate asserted 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 the address of his last domicile and from his actual last 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 records of the holder if that last known address clearly is neither the domicile nor the last address of the decedent. It is possible, too, that there may be other departures from the rules

of *Texas v. New Jersey* 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 yet formulated rules for the escheat of property of persons dying without heirs, the Commission recommends that the California law be revised to prevent the loss to this state of the personal property of both domiciliary and nondomiciliary decedents in every case in which 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, regardless of his domicile, 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 the *Nolan* case 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 tangible property in this state—as, for example, furniture kept at a vacation cabin—then this state, not the state of domicile, should have the right to escheat the property because this state provided the protection for the property.
3. Any tangible personal property being administered and distributed by a California 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 a reciprocal claim of California to similar property being administered in that jurisdiction and customarily kept in California. This reciprocal provision will prevent this state from surrendering tangible personal property to another state if that state does not recognize California's claims under similar circumstances.
4. Intangible property—*e.g.*, obligations owed to a decedent or securities owned by 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, as indicated in *Texas v. New Jersey*, several states may have a legitimate basis for claiming such property. Under existing California law, the state of the decedent's domicile may escheat his intangible property. This rule is sound and should be continued. The state of the decedent's domicile usually has provided him with protection for his intangible rights and, therefore, should have the primary claim on those 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 court, the assets should escheat to this state unless the jurisdiction where the decedent was domiciled claims the property and establishes that it would recognize the claim of California to the intangible assets of a California domiciliary when those assets are ad-

ministered and distributed in that jurisdiction. Under this reciprocal provision, California would continue to recognize escheat claims—such as that of Montana in the *Nolan* case—made by the jurisdiction of a decedent's domicile, but California would no longer recognize such claims 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 Sections 1503, 1504, 1505, and 1506 to, 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 1514, 1515, and 1517 to, to add a new article heading immediately preceding Section 1510 (renumbered Section 1530 by this act) of, to add Section 1533 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 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 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, 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 the 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 or which a known owner has refused to accept*, 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 or which a known owner has refused to accept*, pursuant to judicial determination, pursuant to a proceeding of escheat as provided by Chapter 5 (commencing with Section 1410) of this title, or pursuant to operation of law, after the period has elapsed 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. The change is important because the right of California to escheat certain intangible property depends on whether such property is subject to escheat under the law of another state. See subdivision (c) of Section 1510. 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 specified period of time, but the state never acquires the technical title to the property. The revised definition in subdivision (c) makes it clear that this acquisition 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 a corporation's domicile. Subdivision (g) codifies this rule to facilitate reference to it in Chapter 7 (commencing with Section 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, 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 National Conference of 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) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

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

(b) (c) "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, life insurance corporation, and utility.

(c) (d) "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.

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

(d) (f) "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) (g) "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, endowments and annuities.

(f) (h) "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.

(g) (i) "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) (j) "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 or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas, whose rates are regulated 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.

Subdivision (a) has been added to facilitate reference to the person who appears from the holder's records to be the person entitled to the property. The right of this state to escheat unclaimed property depends on the information the holder has concerning the apparent owner identified on its records. That he may have transferred his interest to another person without notice to the holder is of no consequence for escheat purposes. Of course, nothing in this statute prevents the actual owner from recovering the property from the holder or the State Controller. See Sections 1540, 1560.

The listing of certain additional organizations in subdivision (b) is clarifying and eliminates whatever doubts there may have been that those organizations are covered by the subdivision.

A "utility" is included under the definition of "business association" in subdivision (c). Utilities formerly were excluded in this definition, but such exclusion is no longer necessary since the exemption for utilities is now provided by subdivision (b) of Section 1502. The other revisions of subdivision (c) are clarifying changes. The substitution of "private corporation" for "corporation (other than a public corporation . . .)" makes no substantive change. See 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Corporations* § 13 at 2312 (1960).

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

Subdivision (e) 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.*

The reference to "utility" has been deleted from subdivision (i) as unnecessary in the light of Section 1502. Public corporations formerly were specifically excluded from the term "person," which is defined in subdivision (i). This exclusion has been deleted. It is apparent that the exclusion was a technical defect since, under former Code of Civil Procedure Section 1507, certain property held by public corporations was presumed abandoned if unclaimed for seven years, but the procedural provisions of the former statute dealing with reporting and delivery of abandoned property applied only to "persons." It should be noted, however, that certain property in the custody of certain governmental entities is exempted from this chapter by Section 1502 and that certain other property in the custody of governmental entities is not subject to this chapter because its disposition is governed by special statutes such as those listed in the Comment to Section 1519. The other revisions of subdivision (i) are nonsubstantive, clarifying changes.

Subdivision (j) has been revised to limit the definition to utilities whose rates are regulated by public agencies.

## § 1502. Application of chapter

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

~~1526.~~ 1502. (a) This chapter ~~shall~~ *does* not apply to : any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this chapter; nor shall this chapter apply to any

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

(2) 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) *Except for sums payable on telegraphic money orders, 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 permits or requires to be, and which has been, used or applied directly or indirectly for the benefit of the ratepayers in determining the rates to be charged by the utility.*

(c) *None of the provisions of this chapter applies to any type of property received by the state under the provisions of Chapter 1 (commencing with Section 1300) to Chapter 6 (commencing with Section 1440), inclusive, of this title.*

**Comment.** Subdivision (a) of Section 1502 is the same in substance as former Section 1526, except that the portion of former Section 1526 that excluded property "presumed abandoned or escheated under the laws of another state prior to the effective date of this chapter" has been deleted because its substance is retained in subdivision (b) of Section 1504.

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. This subdivision contains a limitation not found in the prior law. The "utility exemption" is limited to property that is used or applied for the benefit of the ratepayers in determining the rates to be charged by the utility. This limitation has been added to assure that the unclaimed property which is covered by the exemption will actually be used for the benefit of the ratepayers and will not merely revert to the stockholders. Telegraphic money orders are specifically excepted from the exemption so that the intent to escheat such funds will be clear. If such funds were included within the exemption, the funds would not be retained by the company but would escheat to the state where the company was domiciled. See the Comment to Section 1510.

Subdivision (c) is the same in substance 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 defini-

tion of "escheat" that appears in that section governs the construction of this chapter as well as the construction of the other chapters in this title.

**§ 1503. Special provisions concerning property not subject to former law**

SEC. 7. Section 1503 is added to the Code of Civil Procedure, to read:

1503. (a) As used in this section:

(1) "Old act" means this chapter as it existed prior to January 1, 1969.

(2) "New act" means this chapter as it exists on and after January 1, 1969.

(3) "Property not subject to the old act" means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

(b) The holder is not required to file a report concerning, or to pay or deliver to the State Controller, any property not subject to the old act if an action by the owner against the holder to recover such property was barred by an applicable statute of limitations prior to January 1, 1969.

(c) The holder is not required to file a report concerning, or to pay or deliver to the State Controller, any property not subject to the old act unless on January 1, 1969, such property has been held by the holder for less than the escheat period. "Escheat period" means the six-month or seven-year or fifteen-year period referred to in Sections 1513 to 1520, inclusive, of the new act, whichever is applicable to the particular property.

*Comment.* Legislation enacted in 1968 added, amended, and repealed sections of this chapter. The 1968 legislation provides for the escheat of certain property that would never have been presumed abandoned—escheated—under the chapter had the 1968 legislation not been enacted. For example, former Section 1504 provided for the escheat of certain property held or owing by a business association. However, former Section 1504 applied only to California business associations (those "organized under the laws of or created in this state") and business associations doing business in this state. This limitation precluded the escheat to this state of property held or owing by any business association that was not a California business association and that was not doing business in this state, even where the property was held or owing to a person whose last known address according to the records of the business association was in California. The 1968 legislation removes this limitation. Property held by any business association now escheats if the conditions specified in Sections 1516 and 1510 are satisfied. The 1968 legislation thus provides for the escheat of property that was not subject to the "old act" (this chapter as it existed prior to January 1, 1969).

Section 1503 provides special rules concerning property that was not subject to the old act. The section has no effect on property that escheated under the old act or would have escheated under the old act in the course of time had the 1968 legislation not been enacted.

Subdivision (b) of Section 1503 makes it clear that this chapter imposes no obligation whatsoever on the holder with respect to property not subject to the old act if the owner's claim against the holder was barred by an applicable statute of limitations prior to the operative date of the 1968 legislation—January 1, 1969. For example, if a business association is not a California business association and was not doing business in this state prior to January 1, 1969, the business association need not pay or deliver to this state any property where the claim of the owner to such property was barred prior to January 1, 1969. On the other hand, if the business association is a California business association or was doing business in this state prior to January 1, 1969, the fact that the claim of the owner to the property was barred prior to January 1, 1969, does not relieve the association of its duty to pay or deliver escheated property to this state.

Subdivision (c) deals with the problem of how far back the holder must check his records to determine what property that was not subject to the old act must be paid to California under this chapter. For example, if the business association is not a California business association and was not doing business in this state prior to January 1, 1969, the 1968 legislation imposes a new requirement that the business association pay to California unclaimed dividends that are payable to shareholders whose last known address is in California if the dividends have been unclaimed for seven years and the business association has not heard from the shareholder for that period. Under subdivision (c), such a business association need pay to California only those dividends with respect to which the seven-year period expires after December 31, 1968. Thus, if the dividends became payable in 1960 and the shareholder has neither contacted the business association nor claimed the dividends, subdivision (c) relieves the business association from the obligation of paying such unclaimed dividends to California. On the other hand, if the dividends became payable in 1965, they will escheat to California in 1972 if the shareholder has neither contacted the business association nor claimed the dividends during the seven-year period. In the latter case, subdivision (c) does not relieve the business association from paying the escheated dividends to the State Controller because on January 1, 1969, the dividends have been held for less than the escheat period (seven years).

#### § 1504. Property escheated by another state

SEC. 8. Section 1504 is added to the Code of Civil Procedure, to read:

1504. (a) As used in this section:

(1) "Old act" means this chapter as it existed prior to January 1, 1969.

(2) "New act" means this chapter as it exists on and after January 1, 1969.

(3) "Property not subject to the old act" means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

(b) This chapter does not apply to any property that was escheated under the laws of another state prior to September 18, 1959.

(c) This chapter does not require the holder to pay or deliver any property not subject to the old act to this state if the property was escheated under the laws of another state prior to January 1, 1969, and was delivered to the custody of that state prior to January 1, 1970, in compliance with the laws of that state. Nothing in this subdivision affects or limits the right of the State Controller to recover such property from the other state.

*Comment.* Subdivision (b) of Section 1504 continues without substantive change that portion of former Section 1526 which provided that this chapter did not apply to "any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this chapter [September 18, 1959]."

Subdivision (c) relieves the holder of the duty to pay to California property that (1) was not subject to this chapter as it existed prior to January 1, 1969, (2) was escheated by another state prior to January 1, 1969, and (3) was delivered to the custody of the other state prior to January 1, 1970. The subdivision reflects the same policy as subdivision (b). Subdivision (c) will minimize the transitional problems that will arise with respect to property not subject to the chapter as it existed prior to January 1, 1969, but escheated under the chapter as it exists on and after January 1, 1969. Subdivision (c) has no effect on property which was presumed abandoned—escheated—after September 18, 1959, and prior to January 1, 1969, under this chapter as it existed prior to January 1, 1969. See Section 1505.

Subdivision (c) has no effect on the right of the State Controller to claim for California property that has been escheated by and paid to another state. For example, where unclaimed intangible personal property has been paid to another state which is the state of the holder's domicile, California may recover the property from the other state if the last known address of the owner as shown by the records of the holder is in California or if the actual last known address of the owner is in California. See *Texas v. New Jersey*, 379 U.S. 674 (1965). In this connection, it should be noted that subdivision (c) does not relieve the holder of the duty to make such reports to the State Controller as may be necessary in order that California may establish its claim to the property paid to the other state.

#### § 1505. Savings clause

SEC. 9. Section 1505 is added to the Code of Civil Procedure, to read:

1505. This chapter does not affect any duty to file a report with the State Controller or to pay or deliver any property

to him that arose prior to January 1, 1969, under the provisions of this chapter as it existed prior to January 1, 1969. Such duties may be enforced by the State Controller, and the penalties for failure to perform such duties may be imposed, under the provisions of this chapter as it existed prior to January 1, 1969. The provisions of this chapter as it existed prior to January 1, 1969, are continued in existence for the purposes of this section.

*Comment.* Section 1505 makes it clear that the amendments, additions, and repeals made in this chapter in 1968 have no effect on certain duties that arose under this chapter prior to January 1, 1969—the operative date of the 1968 legislation. Such duties may be enforced under the prior law just as if the 1968 legislation had not been enacted. After January 1, 1969, however, the procedure for handling and disposing of property escheated under this chapter is governed by the 1968 legislation. For example, the procedure provided in the 1968 legislation applies to claims by the holder, the owner, or another state to recover property escheated under this chapter, whether or not the property escheated prior to January 1, 1969.

#### § 1506. Continuation of existing law

SEC. 10. Section 1506 is added to the Code of Civil Procedure, to read:

1506. The provisions of this chapter as it exists on and after January 1, 1969, insofar as they are substantially the same as the provisions of this chapter as it existed prior to January 1, 1969, relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

*Comment.* The 1968 legislation which added, amended, and repealed sections in this chapter was largely a restatement and continuation of the former law. Section 1506 is included to make it clear that the provisions of this chapter, insofar as they are substantially the same as the former law relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

The inclusion of Section 1506 makes it clear, for example, that the mere fact that the owner's claim against the holder is barred by the statute of limitations prior to January 1, 1969, does not relieve the holder from the obligation of paying escheated property to the State Controller. For example, assume that the holder is doing business in California and that the statute of limitations ran on a contract obligation of the holder on November 1, 1968. The fact that the statute of limitations ran before January 1, 1969, does not relieve the holder from the obligation of paying the escheated funds to the state in any case where the sum payable by the holder on this obligation would have been presumed abandoned in the course of time under the former law. So far as these escheated funds are concerned, the chapter merely continues the prior law. See Section 1570 and the Comment thereto. Compare Section 1503(b) and the Comment thereto.

**ARTICLE 2. ESCHEAT OF UNCLAIMED PERSONAL PROPERTY**

SEC. 11. 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 stated in Sections 1513 through 1520 exist, and if:

(a) The last known address, as shown on the records of the holder, of the apparent owner is in this state.

(b) No address of the apparent owner appears on the records of the holder and:

(1) The last known address of the apparent owner is in this state; or

(2) The holder is domiciled in this state and has not previously paid the property to the state of the last known address of the apparent owner; or

(3) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner.

(c) The last known address, as shown on the records of the holder, of the apparent owner is in a state designated by regulation adopted by the State 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 of this state.

(d) The last known address, as shown on the records of the holder, of the apparent owner is in a state designated by regulation adopted by the State 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 or agency of this state.

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

**Comment.** Subdivisions (a), (b), and (c) of Section 1510 describe types of abandoned intangible property that this state may claim under the rules stated in *Texas v. New Jersey*, 379 U.S. 674 (1965). In that case, the Court held that unclaimed intangible property is subject to escheat by the state of the last known address of the owner as shown by the records of the holder and that, where the records of the holder do not show the owner's last address, the property, as a general rule, is subject to escheat by the state of the holder's domicile. In the latter case, the state of the owner's actual last known address

may escheat the property and recover it from the state of the holder's domicile by showing the actual last known address. Where the laws of the state of the owner's last known address, as shown on the holder's records, do not provide for escheat of intangible property, such property is subject to escheat by the state where the holder is domiciled, but in such a case, the state of the owner's last known address may thereafter claim the property if it enacts an applicable escheat law.

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 1513 to 1520. 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, thereby making it unnecessary for them to check the escheat laws of other states.

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

Subdivision (e) resolves a question not decided in *Texas v. New Jersey*. The subdivision 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 is in a foreign nation.

The introductory clause of Section 1510 makes it clear that this chapter does not supersede special statutes which provide for a particular disposition of unclaimed property. See, e.g., CIVIL CODE §§ 2080-2080.6 (property of unknown owner found or saved by another); PROB. CODE § 231 (escheat of decedent's property; disposition of money held by trust funds for health and welfare and similar benefits). See also statutes cited in the Comments to Sections 1517, 1519, and 1520.

Section 1511 (sums payable on travelers checks and money orders) and Section 1515(b) (sums payable by life insurance corporations) provide special presumptions as to the last known address of the apparent owner.

#### § 1511. Presumption relating to travelers checks and money orders

1511. For the purposes of Section 1510, where the records of the holder do not show a last known address of the apparent owner of a travelers check or money order, it is presumed that the state in which the travelers check or money order was purchased is the state of the last known address of the apparent owner. This presumption is a presumption affecting the burden of proof.

**Comment.** Section 1511 is included to deal with the case where the person entitled to the proceeds of a travelers check or money order, or his last known address, is not shown on the records of the holder. In this case, the presumption provides, in effect, for escheat by this state if the travelers check or money order was purchased here. See discussion in *Recommendation Relating to Escheat*, 8 CAL. LAW REVISION

COMM'N, REP., REC. & STUDIES 1001, 1010-1012 (1967). See also Section 1581 (records concerning travelers checks and money orders).

If the records of the holder do show an address for the apparent owner, the state that may escheat the sum payable on the travelers check or money order is determined in accordance with the general rules stated in *Texas v. New Jersey*, 379 U.S. 674 (1965), which are codified in Section 1510.

Since the holder is required by Section 1581 to pay any escheated sum payable on a travelers check or money order to this state if the instrument was purchased here and the holder does not have a record of the last known address of the apparent owner, the presumption provided by Section 1511 will be of significance only where more than one state claims the sum payable on a particular instrument. See Section 1542(a)(3).

**§ 1513. Property held by banking or financial organizations; travelers checks and money orders issued by business associations**

SEC. 12. Section 1502 of the Code of Civil Procedure is renumbered and amended to read :

~~1502. 1513. The Subject to Sections 1510 and 1511, 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 a *travelers checks check* 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~~ *instrument* 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~~ *any draft, certified check, or money order*, 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.

(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 safe-keeping 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.

(e) Any sum payable on a money order issued by a business association (other than a banking or financial organization) that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any charges that may lawfully be withheld, when the owner, for more than seven years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum *or other record* on file with the business association.

*Comment.* Subdivisions (a) through (d) of Section 1513 are substantially the same as subdivisions (a) through (d) of former Section 1502. The changes made either clarify the former language or are necessary to make the section apply to property held by out-of-state businesses as well as to property held by businesses within this state. Subdivision (e) has been added to cover money orders issued by any business association that is not a banking or financial organization.

Subdivisions (d) and (e) apply to telegraphic money orders as well as any other money orders.

Former subdivision (e) is superseded by Section 1514.

The last sentence of former Section 1502 (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 the provision is not contained in the Uniform Act and had the effect of abandoning California's claim to property that it is constitutionally entitled to take.

#### § 1514. Contents of safe deposit boxes

SEC. 13. Section 1514 is added to the Code of Civil Procedure, to read:

1514. The contents of any safe deposit box or any other safekeeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than seven years from the date on which the lease or rental period on the box or other repository expired.

*Comment.* Section 1514 is substantially the same as subdivision (e) of former Section 1502 except that "contents" has been substituted for "any funds or other personal property, tangible or intangible."

Under Section 1533, the State Controller may reject tangible personal property that escheats under Section 1514 if he determines that the state's interest would not be served by accepting it.

#### § 1503 (repealed)

SEC. 14. 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 un-

claimed 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 1515.

#### § 1515. Funds held by life insurance corporations

SEC. 15. Section 1515 is added to the Code of Civil Procedure, to read:

1515. (a) Subject to Section 1510, funds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which 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 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. This presumption is a presumption affecting the burden of proof.

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

(1) The insured has attained, or would have attained if he 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, according to the records of the corporation (i) assigned,

readjusted, or paid premiums on the policy, (ii) subjected the policy to loan, or (iii) corresponded in writing with the life insurance corporation concerning the policy.

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

*Comment.* Section 1515 restates the substance of former Section 1503 with modifications to provide for the escheat of property held by out-of-state life insurance corporations.

### § 1516. Dividends and distributions of business associations

SEC. 16. Section 1504 of the Code of Civil Procedure is renumbered and amended to read:

~~1504.~~ 1516. (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. With respect to such interest, the business association shall be deemed the holder.* ~~was presumed abandoned, is presumed abandoned if:~~

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

(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 1516 is substantially the same as former Section 1504. Changes have been made to provide for the escheat of property held by out-of-state business associations.

#### § 1505 (repealed)

SEC. 17. 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 1517.

#### § 1517. Property distributable in dissolution or liquidation

SEC. 18. Section 1517 is added to the Code of Civil Procedure, to read:

1517. All property distributable in the course of a voluntary or involuntary dissolution or liquidation of a business association that is unclaimed by the owner within six months after the date of final distribution or liquidation escheats to this state. This section applies to all tangible personal property located in this state and, subject to Section 1510, to all intangible personal property.

**Comment.** Section 1517 is similar to former Section 1505. Unlike the former section, however, Section 1517 applies to tangible personal property located in this state as well as to intangible personal property. Section 1517 also extends the state's claim to such property even though the business association may not have been organized under the laws of this state. Section 1517 provides that the property escheats six months after final distribution or liquidation. The former section specified two years. Since property escheated under Section 1517 remains subject to the owner's claim, there appears to be no reason to delay transfer of custody to the state.

Under Section 1533, the State Controller may reject tangible personal property that escheats under Section 1517 if he determines that the state's interest would not be served by accepting it.

This section does not supersede or impliedly repeal special statutes that provide for a particular disposition of unclaimed property under circumstances similar to those described in Section 1517. See, e.g., CODE CIV. PROC. § 570 (receiver); CORP. CODE §§ 5009-5011 (dissolving or winding up corporation); FIN. CODE §§ 3121, 3160-3162 (liquidation of bank or trust corporation); INS. CODE § 1056.5 (liquidated insurer).

### § 1518. Property held by fiduciaries

SEC. 19. Section 1506 of the Code of Civil Procedure is renumbered and amended to read:

1506. 1518. (a) *Subject to Section 1510, All any intangible personal property, and any the income or increment thereon, 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, 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 personal property as an agent for a business association, such holder shall be he is deemed to 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 For the purposes of this chapter, 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 1518 is substantially the same as former Section 1506. Changes have been made to clarify the meaning of the section and to make it apply to fiduciaries and business associations wherever located.

### § 1519. Property held by a government or governmental subdivision or agency

SEC. 20. Section 1507 of the Code of Civil Procedure is renumbered and amended to read:

1507. 1519. *Subject to the provisions of Section 1526, all All tangible personal property located in this state, and, sub-*

*ject 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 1519 is substantially the same as former Section 1507. The section has been modified to make it apply to tangible, as well as intangible, property and to intangible property wherever the holder of the property may be located.

Under Section 1533, the State Controller may reject tangible personal property that escheats under Section 1519 if he determines that the state's interest would not be served by accepting it.

This chapter does not apply to certain property in the custody of certain governmental entities. See Section 1502. Nor does this section supersede or impliedly repeal special statutes which provide for a particular disposition of unclaimed property held by governmental subdivisions or agencies. See, *e.g.*, AGRIC. CODE § 4702 (citrus fruit fair); CIVIL CODE §§ 1873, 2080.4–2080.6 (police or sheriff), §§ 1874, 2080.8 (University of California), §§ 1875, 2080.9 (state colleges); EDUC. CODE § 24002 (state colleges); GOVT. CODE §§ 16373–16374 (money deposited by state agency in state treasury trust fund); HARB. & NAV. CODE §§ 513–521 (proceeds from sheriff's sale of perishable cargo from stranded vessel), § 522 (watercraft abandoned upon tidelands of public entity); PENAL CODE § 1411 (stolen or embezzled property in custody of county), § 1418 (exhibits from criminal trials), §§ 1420–1422 (money held by district attorney in criminal proceeding), §§ 5061–5066 (unclaimed property of inmates held by Director of Corrections); PUB. RES. CODE §§ 2268–2271 (stolen ores), § 5561.5 (unclaimed property in possession of regional park district); VEH. CODE §§ 22660, 22705, 22707 (abandoned motor vehicles), §§ 2414–2415 (property, other than vehicles, held by Department of Motor Vehicles); WELF. & INST. CODE § 516 (bicycles and toys held by sheriff), § 4126 (property of deceased patient in Department of Mental Hygiene institution).

#### § 1520. Other property held for another person

SEC. 21. Section 1508 of the Code of Civil Procedure is renumbered and amended to read:

*1508. 1520. 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 1513, 1514, 1515, 1516, 1517, 1518, and 1519, 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 1520 is substantially the same as former Section 1508. The section has been modified to make it apply to tangible, as

well as intangible, property and to intangible property wherever the holder of the property may be located.

Under Section 1533, the State Controller may reject tangible personal property that escheats under Section 1520 if he determines that the state's interest would not be served by accepting it.

This section does not supersede or impliedly repeal special statutes which provide for a particular disposition of unclaimed property. See examples cited in the Comments to Sections 1510, 1517, and 1519. See also CIVIL CODE §§ 1861, 1861a, 1862 (unclaimed property held by keeper of hotel, boarding house, apartment, and the like), § 1862.5 (unclaimed property in hospital), § 3072 (excess proceeds from sale of motor vehicle by lienholder).

### § 1509 (repealed)

SEC. 22. 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 was inconsistent with *Texas v. New Jersey*, 379 U.S. 674 (1965), and the revisions made in this chapter to conform to that decision. Therefore, the section is repealed.

## ARTICLE 3. IDENTIFICATION OF ESCHEATED PROPERTY

SEC. 23. 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, such new article heading to read:

### Article 3. Identification of Escheated Property

#### § 1530. Report of escheated property

SEC. 24. 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 Con-

troller with respect to the property as hereinafter provided in this section.

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

(1) ~~The~~ 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~~ escheated funds of life insurance corporations, the full name of the insured or annuitant, and his last known address, according to the life insurance corporation's records;

(3) In case of money or other personal property removed from the contents of a safe deposit box or other safekeeping repository or ~~agency~~ in the case of other tangible property, ~~reference to a description of such property and the place where it is held and may be inspected by the State 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 safekeeping 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) ~~The~~ 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.

(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 limita-

tions, 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) (e) *Verification* The report, if made by an individual, shall be verified by the individual; if made by a partnership, shall be executed 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 that have been made in the section are mostly technical and are necessary to conform to the revision of the remainder of the chapter.

In subdivision (b)(4), the value of the items that a holder may report in the aggregate has been changed from "under \$10" to "\$10 or less." The change makes the amount correspond with the amount that the Controller may charge for servicing the property under Section 1540(c).

Subdivision (b)(1) has been revised to incorporate the substance of an amendment (relating to travelers checks and money orders) made by the National Conference of Commissioners on Uniform State Laws to the Uniform Disposition of Unclaimed Property Act. See 26 SUGGESTED STATE LEGISLATION D-31 (1967).

In the case of escheated funds of life insurance corporations, the name, if known, and the last known address, if any, of the beneficiary or other person appearing from the records of the corporation to be entitled to the funds must be reported. Subdivision (b)(1). If this person is one other than the insured or annuitant, the name and

last known address of the insured or annuitant must also be reported. Subdivision (b) (2).

Former subdivision (e) has been omitted because subdivision (e) of Section 1531 requires the Controller to notify owners of any substantial sums subject to escheat.

Former subdivision (g) also has been omitted. It was a temporary provision governing property subject to the reporting requirement as of September 18, 1959. Section 1505 preserves the effect of subdivision (g).

### § 1531. Notice and publication of lists of unclaimed property

SEC. 25. Section 1511 of the Code of Civil Procedure is renumbered and amended to read:

~~1511.~~ 1531. (a) 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 apparent owner of property escheated to this state under this chapter; or

(2) If no address of any apparent owner named in the reports is listed, or if the address listed in the reports for any apparent 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 escheated 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 - ~~(1)~~ The the names in alphabetical order and last known addresses, if any, of:

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

(2) Those apparent 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; and

(3) The insured or annuitant in the case of funds described in Section 1515 if:

(i) The report does not list the name of the apparent owner of the funds and his last known address; and

(ii) The last known address of the insured or annuitant is 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.

~~(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.

~~(d)~~ (e) Within 120 days from the ~~receipt of final date for filing~~ the 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.

(g) *This section is not applicable to sums payable on travelers checks or money orders that escheat under Section 1513.*

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

Subdivision (b) has been revised to indicate more clearly the names to be contained in the notice.

Subdivision (g) incorporates the substance of a change made by the National Conference of Commissioners on Uniform State Laws in the Uniform Disposition of Unclaimed Property Act. See 26 SUGGESTED STATE LEGISLATION D-31 (1967).

The time limits in subdivision (c) (2) have been changed to conform to the change made in the time for remitting escheated property to the State Controller under Section 1532. See the Comment to that section.

Subdivision (e) has been revised to require that notice be given to the apparent owner within 120 days from the final date for filing the report. This change conforms subdivision (e) to subdivision (a) and will avoid mechanical and processing difficulties in mailing the notice to the owner.

### § 1532. Payment and delivery of property to State Controller

SEC. 26. Section 1512 of the Code of Civil Procedure is renumbered and amended to read:

~~1512.~~ 1532. (a) *Except as otherwise provided in subdivisions (b) and (c), 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~~ any person 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 1513, such sums shall be paid to the State Controller not later than 20 days after the final date for filing the report.*

(d) The holder of any interest under *subdivision (b) of Section 1504* ~~(b)~~ 1516 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.

(e) *Payment of any intangible property to the State Controller shall be made at the office of the State Controller in Sacramento or at such other location as the State Controller by regulation may designate. Except as otherwise agreed by the State Controller and the holder, tangible personal property shall be delivered to the State Controller at the place where it is held.*

**Comment.** Subdivisions (a), (b), and (d) of Section 1532 are substantially the same as former Section 1512. The time period for remitting escheated property to the State 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 Controller in some month other than the last month of the fiscal year.

Subdivision (c) incorporates the substance of an amendment made by the National Conference of Commissioners on Uniform State Laws to the Uniform Disposition of Unclaimed Property Act. See 26 SUGGESTED STATE LEGISLATION D-31 (1967).

Subdivision (e) has been added to prevent the holder's having to bear the expense of shipping tangible property to the Controller in Sacramento. By agreement, the Controller and the holder may provide that the holder shall bear the expense of such shipment. This might be done, for example, in return for the Controller's agreement to relieve the holder of the further responsibility for various kinds of worthless unclaimed property.

#### § 1533. Controller may reject tangible personal property

SEC. 27. 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, 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 the property and notifies the holder in writing, within 120 days from receipt of the report required by Section 1530, of his determination not to take custody of the property.

*Comment.* Tangible personal property subject to escheat under Sections 1514, 1517, 1519, and 1520 may be of little or no value, and the costs of transportation, storage, and disposition may exceed its worth. Section 1533 authorizes the State Controller to reject tangible personal property if he determines that the state's interest would not be served by accepting it.

### ARTICLE 4. PAYMENT OF CLAIMS

SEC. 28. 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 by owner for escheated property

1540. (a) Any person, excluding another state, who claims an interest in property paid or delivered to the State Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the 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. 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 if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) Except as otherwise provided in Section 1560, the State Controller shall deduct from the amount of any claim allowed under this section 1 percent of the total amount of the claim, but in no event less than ten dollars (\$10), for each individual share claimed, as a service charge for receiving, accounting for, and managing the money or other property claimed and for processing the claim to recover it.

*Comment.* Section 1540 repeats in substance the provisions of former Sections 1518 and 1519. Although the time limit specified in subdivision (b) was not contained in either of the superseded sections, it was contained, in effect, in former Section 1520 (renumbered as Section 1541).

Section 1540 does not continue the requirement of the former law that the Controller make a written finding and decision if he holds a hearing. A written finding and decision formerly was not required if no hearing was held. As any further proceedings in court are tried in the same manner whether or not there is such a finding and decision, there appears to be no reason for requiring a written finding and decision if there is a hearing.

#### § 1518 (repealed)

SEC. 29. 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. 30. 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. 31. 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 make a decision~~ within 90 days after the filing of the claim, may file a ~~petition commence an action, naming the State Controller as a defendant,~~ 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 make a decision~~. A ~~copy of the petition and of a notice of hearing~~ *The summons and a copy of the complaint* shall be served upon the State Controller and the Attorney General and the ~~Attorney General State Controller~~ 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 plaintiff~~, 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 specify the time within which the Attorney General must answer. The revised section does so. The sentence authorizing his filing of a statement of noninterest has been deleted as unnecessary. The last sentence has been deleted to make applicable the normal rules that govern costs in civil proceedings.

#### § 1542. Right of another state to recover escheated property

SEC. 32. 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, another state is entitled to recover the property if:

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

(2) The last known address of the apparent owner of the property appearing on the records of the holder is in such other state and, under the laws of that state, the property has escheated to that state;

(3) The property is the sum payable on a travelers check or money order that escheated to this state by application of the presumption provided by Section 1511, the last known address of the apparent owner was in fact in such other state, and, under the laws of that state, the property escheated to that state; or

(4) The property is funds held or owing by a life insurance corporation that escheated to this state by application of the presumption provided by subdivision (b) of Section 1515, the last known address of the person entitled to the funds was in fact in such other state, and, under the laws of that state, the property 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 the claim within 90 days after it is presented. He may hold a hearing and receive evidence. He shall allow the claim if he determines that the other state is entitled to the escheated property. A claim allowed under this section is subject to the charge specified by subdivision (c) of Section 1540.

*Comment.* Section 1542 is new. It is necessary to provide a procedural means for complying with *Texas v. New Jersey*, 379 U.S. 674 (1965). That decision holds that property escheated by one state (under the conditions now specified by subdivisions (b) and (c) of Section 1510) may be claimed by another state under the circumstances stated in paragraphs (1) and (2) of subdivision (a) of this section.

It should be noted that the presumption created by Section 1511 operates to permit another state to escheat the sum payable on a travelers check or money order even though the holder of the instrument is domiciled in California if the check or order was purchased in the other state. Such sums therefore may be recovered under subdivision (a)(2) of this section. Of course, such sums escheat to the other state only if that state has a statute which so provides.

For a comparable provision, see N.H. REV. STATS. §471-A:24 (1965 Supp.), enacted by N.H. Stats. 1965, Ch. 214, § 1, eff. Jan. 1, 1966.

## ARTICLE 5. ADMINISTRATION OF UNCLAIMED PROPERTY

SEC. 33. A new article heading is added immediately preceding Section 1513 of the Code of Civil Procedure, which section is renumbered as Section 1560 by this act, such new article heading to read:

### Article 5. Administration of Unclaimed Property

§ 1560. Relief from liability upon payment or delivery

SEC. 34. Section 1513 of the Code of Civil Procedure is renumbered 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~~ *escheated* property to the State Controller under this chapter is relieved of 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 *safekeeping* 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 be 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 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 *without deduction of any fee or other charges*. *Where reimbursement is sought for a payment made on a negotiable instrument (including a travelers check or money order), the holder shall be reimbursed under this subdivision upon filing proof that the instrument was duly presented to him and that payment was made thereon to a person who appeared to the holder to be entitled to payment.*

(c) *The holder shall be reimbursed under this section even if he made the payment to a person whose claim against him was barred because of the expiration of any such period of time as those described in Section 1570.*

(d) 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. *The State Controller may, in his discretion, accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subdivision as sufficient proof for the purposes of this subdivision.*

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

The provision in subdivision (b) requiring reimbursement to be "without deduction of any fee or other charges" has been added to conform this subdivision with the policy reflected in subdivision (d). Subdivision (b) also has been revised to specify the proof required to

be filed by a holder to obtain reimbursement for payment of a negotiable instrument.

Subdivision (c) has been added to make it clear that the holder may obtain reimbursement for a payment made on a claim barred by the statute of limitations.

The last sentence of subdivision (d) is new and reflects the practice followed by the State Controller under former Section 1513.

#### § 1561. Indemnification of holder after payment or delivery

SEC. 35. Section 1561 is added to the Code of Civil Procedure, to read:

1561. (a) If the holder pays or delivers escheated property to the State Controller in accordance with this chapter and thereafter any person claims the property from the holder or another state claims the property from the holder under that state's laws relating to escheat, the State Controller shall, upon written notice of such claim, defend the holder against the claim and indemnify him against any liability on the claim.

(b) If any holder, because of mistake of law or fact, pays or delivers any property to the State Controller that has not escheated under this chapter and thereafter claims the property from the State Controller, the State Controller shall, if he has not disposed of the property in accordance with this chapter, refund or redeliver the property to the holder without deduction for any fee or other charge.

(c) As used in this section, "escheated property" means property which this chapter provides escheats to this state, whether or not it is determined that another state had a superior right to escheat such property at the time it was paid or delivered to the State Controller or at some time thereafter.

*Comment.* Under Section 1510, certain property may escheat to this state but later escheat to another state. In other cases, the owner of property may claim it from the holder after it has escheated and been delivered to this state. To protect a holder who has delivered escheated property to this state from the necessity to defend either the owner's claim or another state's claim of escheat, subdivision (a) requires the State Controller to defend the claim and to indemnify the holder against liability. If the owner or the other state is entitled to the property, the Controller may deliver the property to the claimant as provided in Section 1540 or 1542.

Subdivision (a), like Section 1560, applies only in cases in which *escheated* property has been paid or delivered to the Controller. If the holder mistakenly delivers to the Controller property that has not escheated, this section does not require the Controller to defend the claim of the owner or indemnify the holder. Of course, under subdivision (b), the holder may recover any property mistakenly delivered to the Controller.

### § 1562. Income accruing after payment or delivery

SEC. 36. 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. 37. Section 1516 of the Code of Civil Procedure is renumbered and amended to read:

~~1516.~~ 1563. (a) *Except as provided in subdivision (b),* ~~All abandoned all 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.

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

~~(b)~~

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.

*(b) Securities listed on an established stock exchange shall be sold at the prevailing prices on such exchange. United States Government Savings Bonds and United States War Bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.*

(c) 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.

~~(d) 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 substantially the same as former Section 1516.

Because United States Savings Bonds and United States War Bonds are not subject to sale, provisions relating to these bonds have been added to subdivision (b) to authorize their presentation to the United States for payment.

Former subdivision (d) has been deleted as unnecessary in light of the broader provisions of Section 1566.

#### § 1564. Disposition of funds

SEC. 38. 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  $\gamma$ .

(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  $\gamma$ .

(4) For payment of the cost incurred by the State Controller ~~covering~~ *for* 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  $\gamma$ .

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

(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  $\gamma$ .

(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 the 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—for example, litigation costs incurred under Sections 1571–1574—are not clearly included among the specific purposes listed in subdivision (b). The revised language eliminates any uncertainty as to the availability of the fund for such ordinary administrative expenses.

#### § 1565. Disposition of property having no commercial value

SEC. 39. 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. 40. Section 1566 is added to the Code of Civil Procedure, to read:

1566. (a) When payment or delivery of money or other property has been made to any claimant under the provisions of this chapter, no suit shall thereafter be maintained by any other claimant against the state or any officer or employee thereof for or on account of such property.

(b) Except as provided in Section 1541, no suit shall be maintained by any person against the state or any officer or employee thereof for or on account of any transaction entered into by the State Controller pursuant to this chapter.

**Comment.** Subdivision (a) is substantially the same as Code of Civil Procedure Section 1335; subdivision (b) is substantially the same as Code of Civil Procedure Section 1378.

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

#### ARTICLE 6. COMPLIANCE AND ENFORCEMENT

SEC. 41. A new article heading is added immediately preceding Section 1515 of the Code of Civil Procedure, which section is renumbered as Section 1570 by this act, such new article heading to read:

##### Article 6. Compliance and Enforcement

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

SEC. 42. Section 1515 of the Code of Civil Procedure is renumbered 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 *from the holder*, ~~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.

**Comment.** Section 1570 is the same in substance as former Section 1515.

This chapter was originally enacted in 1959 and took effect on September 18, 1959. In *Douglas Aircraft Co. v. Cranston*, 58 Cal.2d 462, 24 Cal. Rptr. 851, 374 P.2d 819 (1962), the court held, as a matter of statutory construction, that former Section 1515 (now Section 1570) was not "retroactive" and, therefore, applied only to claims on which the statute of limitations had not run prior to September 18, 1959. Thus, if the period of limitations applicable to the owner's claim against

the holder had expired prior to that date, the holder had no duty to report or to pay or deliver the property, even though the property was "presumed abandoned" as of that date under former Section 1510(g). Conversely, under the *Douglas Aircraft* decision, if the statute of limitations did not bar the owner's claim against the holder until after September 17, 1959, the holder was required to report and to pay or deliver the property, whether the presumption of abandonment arose before or after that date. The 1968 amendments, repeals, and additions to this chapter have no effect on the rule applied in the *Douglas Aircraft* case. See Section 1506 and the Comment to that section.

For a discussion of the effect of the statute of limitations having run prior to January 1, 1969 (the effective date of the 1968 amendments, additions, and repeals in this chapter), see Sections 1503(b) and 1506 and the Comments to those provisions.

The rules that determine when a claim against the holder is barred by lapse of time are not provided by this chapter but by the statutes of limitation and related judicial decisions. Significantly, there are several types of claims that never become barred by lapse of time alone. See *Bank of America v. Cranston*, 252 Cal. App.2d -- [A.C.A. 222], 60 Cal. Rptr. 336 (1967) (hearing denied by Supreme Court).

#### § 1571. Examination of records

SEC. 43. Section 1522 of the Code of Civil Procedure is renumbered 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. 44. 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 is superseded by Section 1572.

**§ 1572. Actions to enforce compliance**

SEC. 45. 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 of 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 clarifies the circumstances under which the Controller may sue in the courts of this state or another state or in the federal courts to enforce the provisions of this chapter. In general, the section requires the Controller to proceed in the courts of California unless the California courts cannot obtain jurisdiction over the holder.

**§ 1573. Agreements with other states**

SEC. 46. Section 1573 is added to the Code of Civil Procedure, to read:

1573. The State Controller may enter into an agreement to provide information needed to enable another state to determine unclaimed property it may be entitled to escheat if such other state or an official thereof agrees to provide this state with information needed to enable 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 enable 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 the reports.

*Comment.* Section 1573 is new. Persons domiciled in this state may hold property that has escheated to another state, but that state may

be unable to obtain jurisdiction over the holder to compel his reporting and delivery of the property. Conversely, persons domiciled in other states may hold property that has escheated to California, yet California may have no means to compel the reporting and delivery of the property.

Section 1573 permits the Controller to agree with other states that he, and they will furnish information obtained from holders within their jurisdictions as to property that may have escheated to the other state.

The section also authorizes the Controller, by regulation, to require reports from California holders so that he can furnish the information required by the agreements with officials of the other states. By making the information available to other states, the Controller can enable them to assert their claims directly against the holder or to request this state to enforce their claims under Section 1574. Through reciprocal 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 1575.

#### § 1574. Action on behalf of another state

SEC. 47. Section 1574 is added to the Code of Civil Procedure, to read:

1574. At the request of another state, the Attorney General of this state may bring an action in the name of the other state, in any court of appropriate jurisdiction of this state or federal court within this state, to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat by the other state, if:

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

(b) The 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 the other state believed by the State Controller to hold property subject to escheat under this chapter, where the courts of this state cannot obtain jurisdiction over such person; and

(c) The other state has agreed to pay reasonable costs incurred by the Attorney General in bringing the action.

*Comment.* Section 1574 authorizes the Attorney General of this state to sue in this state to compel compliance with the unclaimed property laws of another state. Under the section, however, the Attorney General may do so only if the other state will act similarly to enforce the unclaimed property laws of California against holders of unclaimed property in that state. For a similar provision, see N.H. REV. STATS. (1965 Supp.) § 471-A:15, enacted by N.H. Stats. 1965, Ch. 214, § 1, eff. Jan. 1, 1966.

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

SEC. 48. Section 1575 is added to the Code of Civil Procedure, to read:

1575. (a) If the State Controller believes that a person in another state holds property subject to escheat under this chapter and the courts of this state cannot obtain jurisdiction over that person, the Attorney General of this state may request an officer of the 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 the other state in any action brought under the authority of this section. The State Controller may agree to pay to any state bringing such an action a reward not to exceed fifteen percent of the value, after deducting reasonable costs, of any property recovered for this 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 an action to recover property escheated to California. To provide an incentive for the recovery of such property, the section authorizes payment of a reward of not more than 15 percent of the value of the property. The reward is not paid from the escheated property itself. Because California's claim is made for the benefit of the state rather than the owner, it would be inappropriate to charge the owner of the property with the reward if he should later recover the property.

For a similar provision, see N.H. REV. STATS. (1965 Supp.) § 471-A:15, enacted by N.H. Stats. 1965, Ch. 214, § 1, eff. Jan. 1, 1966.

### § 1576. Penalties

SEC. 49. Section 1524 of the Code of Civil Procedure is renumbered and amended to read:

~~1524.~~ 1576. (a) Any person who willfully 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 *or such duty is not performed*, but not more than one thousand dollars (\$1,000).

(b) Any person who willfully 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 the same in substance as former Section 1524.

### ARTICLE 7. MISCELLANEOUS

SEC. 50. A new article heading is added immediately preceding Section 1525 of the Code of Civil Procedure, which sec-

tion is renumbered as Section 1580 by this act, such new article heading to read:

Article 7. Miscellaneous

§ 1580. Rules and regulations

SEC. 51. 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 Sections 1513 to 1520, inclusive.*

(2) *Each state that is a party to the Unclaimed Property Compact if such compact is enacted as Chapter 9 (commencing with Section 1620) of this title.*

**Comment.** Subdivision (a) of Section 1580 is the same as former Section 1525. Subdivision (b) has been added to provide holders with a source of information for determining the property that escheats to this state under Section 1510 and *Texas v. New Jersey*, 379 U.S. 674 (1965).

§ 1581. Records concerning travelers checks and money orders

SEC. 52. Section 1581 is added to the Code of Civil Procedure, to read:

1581. (a) Any business association that sells its travelers checks or money orders in this state or that provides such checks or orders to others for sale in this state shall either:

(1) Maintain a record of the names and addresses of the purchasers of all travelers checks and money orders sold on or after January 1, 1969, to purchasers residing in this state; or

(2) Maintain a record indicating those travelers checks and money orders that are sold in this state on or after January 1, 1969, and pay to this state the sums that this chapter provides escheat to this state.

(b) The record required by this section may be destroyed after it has been retained for such reasonable time as the State Controller shall designate by regulation. If the business association complies with paragraph (2) of subdivision (a), the State Controller may not require that the business association maintain the record described in paragraph (1) of subdivision (a).

(c) Any business association that willfully fails to comply with this section is liable to the state for a civil penalty of five hundred dollars (\$500) for each day of such failure to comply, which penalty may be recovered in an action brought by the State Controller.

**Comment.** Section 1581 imposes alternative requirements upon a business association that sells travelers checks or money orders in California. Where the checks or orders are issued or distributed by the association, but actually sold to the purchaser by another person, the requirements are directed to the association rather than the other person. As a first alternative, the section requires the association to maintain a record of the name and address of the purchaser. Subdivision (a)(1). This record will be sufficient under *Texas v. New Jersey*, 379 U.S. 674 (1965), to permit California to escheat the sum payable if the purchaser's address is in California. The keeping of such a record may be an onerous requirement, however. Subdivision (a)(2) therefore permits the business association to maintain instead a record indicating those travelers checks and money orders that are sold in this state. This record will be a simple one to make and maintain. The record can be made, for example, by a letter designation in the serial number of the instrument indicating the state where it was sold. This record will provide the business association with all information needed to determine the travelers checks and money orders that escheat to California under Section 1511. Subdivision (a)(2), therefore, adds the additional condition that, if the simplified record is to be kept, the association pay to this state the sums escheated to this state as a result of the application of the presumption provided by Section 1511.

The amount of the civil penalty imposed by subdivision (c) for willful failure to maintain the required record reflects the substantial amount of money that might be lost to California if a record is not maintained. Absent any record, the money would escheat to the state where the business association is domiciled.

#### § 1582. Validity of contracts to locate property

SEC. 53. Section 1527 of the Code of Civil Procedure is renumbered and amended to read:

~~1527-~~ 1582. No agreement entered *into* within nine months after the date of ~~file~~ *file* a report *is filed* under *subdivision (d)* of Section 1510 ~~(d)~~ 1530 ~~shall be~~ *is* valid if any person thereby undertakes to locate property ~~reported under Section 1510~~ *included in that report* 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.

#### § 1604 (amended)

SEC. 54. 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 accord with the rules stated in *Texas v. New Jersey*, 379 U.S. 674 (1965). In accordance with that decision, subdivision (a) provides for delivery of intangible property to this state if the last known address of the owner is in this state. Subdivision (b) is new and is based on the suggestion in *Texas v. New Jersey, supra*, that tangible property is subject to escheat to the state where the property is located.

#### § 1614 (amended)

SEC. 55. 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 (~~commencing with Section 1500) of Title 10 of Part 3 of this code this title.~~

**Comment.** Section 1614 has been amended, without substantive change, to refer to the appropriate statutes.

#### Severability clause

SEC. 56. If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this act

which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Comment.** A special severability clause appears desirable because this act provides for the escheat of intangible personal property to California in situations not dealt with in *Texas v. New Jersey*, 379 U.S. 674 (1965). See, e.g., Sections 1511, 1515(b). The Supreme Court of the United States may eventually establish rules inconsistent with these provisions.

**Operative date**

SEC. 57. This act becomes operative on January 1, 1969.

**Comment.** To permit time for compliance with this act, the operative date is deferred until January 1, 1969.

## 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 cooperate 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 circum-

stance 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 in effectuating the purposes of the compact and may agree to share costs pursuant to Article III(c)2 or to bear costs pursuant to Article IV.

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 DECEDENTS' 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 decedents' 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 if at the date time of ~~the~~ his 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.* Section 231 has been revised to conform to Sections 232-236, which have been added to provide rules for determining whether a decedent's property escheats to this state.

In subdivision (a) the words, "whether or not he was domiciled in this state," have been added to make it clear that this article governs 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 other 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 *In the Estate of Maldonado*, [1954] P. 223 (C.A. [English]). The language of subdivision (a) has been revised to make it clear that the claim of such a jurisdiction will not preclude escheat that otherwise would occur under the law of California.

The words added at the end of subdivision (c) clarify, rather than change, the meaning of the subdivision. Formerly the section did not indicate what disposition is to be made of the unescheated property.

#### § 232. Real property

SEC. 4. Section 232 is added to the Probate Code, to read:  
232. Real property in 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 escheat of the decedent's tangible personal property that customarily was 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 non-resident 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 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 the other jurisdiction claims the property and establishes that:

(1) The other 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 personal 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 decedent 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 made subject to subdivision (b) to permit a state where the property was usually kept by the decedent to claim the property if it wishes to do so. However, the conditions of subdivision (b) make it clear that California will not surrender any property to the state where it was usually kept unless that state would recognize California's claim under Section 233 to property found in that state.

Subdivision (b) requires the state claiming the property to establish the matters listed. Thus, the other state must be able to demonstrate that, under the statutory or decisional law of that state, California has a reciprocal right to escheat property located in that state. If the other state 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 owed by a decedent who died domiciled in this state. The section includes, as examples, debts owned to the decedent, bank accounts,

promissory notes, shares of corporate stock, dividends, wage claims, and beneficial interests in trusts.

Section 235 neither contains nor recognizes any limitation on the intangible property that escheats under its provisions. If the property was owned by a California domiciliary, it escheats to this state wherever the obligor may be located and wherever the obligation may have been incurred.

§ 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 in accordance with Section 231 whether or not the decedent was domiciled in this state at his death.

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

(1) The other 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 that are administered in this state as part of a decedent's estate escheat to this state if the decedent died without heirs. Under this provision, for example, even if the decedent was domiciled in another state, his California bank account escheats to California.

Subdivision (a) is made subject to subdivision (b) to permit the state of the decedent's domicile to claim the property if it wishes to do so. However, the conditions of subdivision (b) make it clear that California will not relinquish such property to the state of domicile unless that state would recognize California's claim under Section 235 to escheat intangibles subject to that state's jurisdiction.

Subdivision (b) requires the state claiming the property to establish the matters listed. Thus, the other state must be able to demonstrate that, under its statutory or decisional law, California has a reciprocal right to escheat intangibles subject to the jurisdiction of that state. If the other state 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).

o

printed in CALIFORNIA OFFICE OF STATE PRINTING