

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 822 (Becker)
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Fiscal: Yes
Urgency: No
AWM

SUBJECT

Unclaimed property: digital financial assets

DIGEST

This bill amends the Unclaimed Property Law (UPL) to provide when and how digital financial assets, as defined, escheat to the state.

EXECUTIVE SUMMARY

The UPL provides for the “escheat” of unclaimed personal property to the state, which is the reversion of property to the state due to the failure of the owner of the property to inherit or claim the property. When property escheats to the state, the state assumes custody of the property in perpetuity, unless and until the owner claims the property. The UPL provides procedures by which the holder of unclaimed property – including specified categories of intangible property – must transfer unclaimed property to the state, and for a rightful owner to apply to receive their property (or the monetary value thereof) after it has been transferred to the state.

This bill establishes the procedures and requirements by which digital financial assets will escheat to the state. The bill provides for escheat along the same lines as other intangible personal assets, except that, once a holder has reported to the Controller that it is holding covered digital financial assets, it must transfer the assets within 30 days to the Controller’s cryptocurrency custodian. The Controller retains the discretion to decline to take custody of the assets if it determines that doing so is not in the best interest of the state. The Controller is tasked with selling off the assets in the same manner as securities, and the rightful owner can claim their assets, or the value of their assets once sold, through the existing claim procedure

This bill is sponsored by State Controller Malia M. Cohen. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the UPL, which establishes when and how intangible property escheats to the state for the state to take custody of, but not own, unclaimed property. (Code Civ. Proc., pt. 3, tit. 10, ch. 7, §§ 1500 et seq.)
- 2) Provides that property received by the state pursuant to the UPL shall not permanently escheat to the state, and that it is the intent of the Legislature that property owners be reunited with their property. (Code Civ. Proc., § 1501.5.)
- 3) Defines the following relevant terms:
 - a) “Unclaimed property,” unless specifically qualified, means all property (1) which is unclaimed, abandoned, escheated, permanently escheated, or distributed to the state, or (2) which, under any provision of law, will become unclaimed, abandoned, escheated, permanently escheated, or distributed to the state, or (3) to the possession of which the state 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, escheated, permanently escheated, or distributed to the state. (Code Civ. Proc., § 1300(b).)
 - b) “Escheat,” unless specifically qualified, means 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 to the right of claimants to appear and claim the escheated property or any portion thereof. (Code Civ. Proc., § 1300(c).)
 - c) “Apparent owner” means the person who appears from the records of the holder to be entitled to property held by the holder. (Code Civ. Proc., § 1501(a).)
 - d) “Business organization” means any private corporation, 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. (Code Civ. Proc., § 1501(c).)
 - e) “Holder” means any person in possession of property subject to the UPL belonging to another, or who is a trustee in case of a trust, or is indebted to another on an obligation subject to the UPL. (Code Civ. Proc., § 1501(e).)
 - f) “Owner” means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of any other choses in action, or any person having a legal or equitable interest in property subject to the UPL, or their legal representative. (Code Civ. Proc., § 1501(g).)

- g) "Person" means any individual, business association, government or governmental subdivision or agency, two or more persons having a joint or common interest, or any other legal or commercial entity, whether that person is acting in their own right or in a representative fiduciary capacity. (Code Civ. Proc., § 1501(h).)
- 4) Provides that all tangible personal property and, subject to 4)-5), all intangible personal property, except as otherwise specified, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to the state.
 - a) Except where a statute establishes a different notice requirement for specific types of property, notice must be given as provided when the property is valued at \$50 or more. The holder shall make reasonable efforts to notify the owner by mail or, if the owner has consented to electronic delivery, electronically; the notice shall be mailed not fewer than 6 and not more than 12 months before the time when the property becomes reportable to the Controller as unclaimed.
 - b) The notice must be accompanied by a form which the owner can return to the holder to indicate that they are active; if the owner signs and returns the phone, the escheat period recommences.
 - c) A holder can provide a telephone number or electronic means for the owner to contact them in lieu of the form. (Code Civ. Proc., § 1520.)
- 5) Provides that, unless otherwise provided, intangible personal property escheats to this state under 3) and 5) when the following conditions are met:
 - 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 the state; (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 of the 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 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 foreign nation and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state. (Code Civ. Proc., § 1510.)

- 6) Establishes the specific conditions under which intangible or personal property held by a business association escheats to the state; intangible property held by a business association generally escheats after three years of specified inactivity by the owner, except as specified. (Code Civ. Proc., §§ 1513-1521.)
- 7) Requires a holder of funds or other personal property to report to the Controller, on a form prescribed by the Controller, specified information relating to the property and the holder. (Code Civ. Proc., § 1530.)
- 8) Requires the holder, no sooner than 7 months and no later than 7 months and 15 days after filing the report in 6), to pay or deliver to the Controller all escheated property specified in the report.
 - a) Any payment of unclaimed cash in an amount of at least \$2,000 shall be made by electronic funds transfer.
 - b) If a person establishes their right to receive the property specified in the report before it is delivered to the Controller, the holder shall instead file a report with the Controller containing information regarding the returned property. (Code Civ. Proc., § 1532.)
- 9) Permits the Controller, if they determine, in their discretion, that it is not in the interest of the state to take custody of tangible personal property, to notify the holder within 120 days of the report that the state will not be taking custody of the property. (Code Civ. Proc., § 1533.)
- 10) Provides that any person, excluding another state, who claims to have been the owner of property paid or delivered to the Controller under the UPL may file a claim to the property or to the net proceeds from its sale. There is no time limit in which an owner may make a claim.
 - a) "Owner," for purposes of 9), means the person who had a legal right to the property before its escheat, their heirs or personal representative, their guardian or conservator, or a public administrator acting pursuant to the Probate Code; and also includes specified dissolved organizations.
 - b) The Controller shall consider each claim within 180 days after it is filed to determine if the claimant is the owner.
 - c) If the Controller denies the claim, notice must be given in writing.
 - d) If the Controller fails to make a decision on the claim within 180 days of filing, or denies the claim in whole or in part, the claimant may file an action for review in the superior court. (Code Civ. Proc., §§ 1540, 1541.)
- 11) Provides that, when the Controller takes custody of unclaimed securities listed on an established stock exchange, the Controller shall sell the securities at the prevailing prices on that exchange; other securities may be sold over the counter at prevailing prices or by any other method that the Controller may determine to be advisable. A person making a valid claim for the securities shall be entitled to receive the

securities as long as they remain in the custody of the Controller; if they have been sold, the person shall be entitled to receive the net proceeds received by the Controller in the sale. (Code Civ. Proc., § 1563.)

12) Defines “digital financial asset” as a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender; but “digital financial asset” does not include any of the following:

- a) A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank or credit union credit, or a digital financial asset.
- b) A digital representation of value issued on or behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.
- c) A security registered with or exempt from registration with the United States Securities and Exchange Commission or a security qualified with or exempt from qualifications with the DFPI. (Fin. Code, § 3102(g).)

This bill:

1) Adds definitions within the UPL:

- a) “Last known address” of an apparent owner is any description, code, or other indication of the location of the apparent owner which identifies the state of last known address, even if the description, code, or indication of the owner is not sufficient to direct the delivery of first-class United States mail to the apparent owner.
- b) “Digital financial asset” has the same meaning as in Section 3102(g) of the Financial Code.

2) Provides that any digital financial asset held or owing by a business association escheats to the state if unclaimed by the owner for more than three years from the last indication of interest in the property by the owner.

3) Provides that the procedure by which digital financial assets escheat to the state is the general procedure set forth in the UPL, except as specified below.

4) Requires the business association to attempt to contact the apparent owner of a digital financial asset as follows:

- a) If the business association has a mailing address for the apparent owner of a digital financial asset in its records, which is not known to be inaccurate, the business association shall send a notice to the owner via certified mail, return receipt requested.

- b) If the business association does not have a mailing address for the apparent owner of a digital financial asset in its records, and the apparent owner has consented to electronic service, notice may be sent electronically.
 - c) The notice shall be sent not fewer than 6 nor more than 12 months before the time the digital financial asset become reportable to the Controller.
- 5) Requires the notice sent pursuant to 4) to:
 - a) State, at the top of the communication, "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language.
 - b) Specify the time when the digital financial asset will escheat and the effects of the escheat, including the need to file a claim for the return of the digital financial asset.
 - c) Specify the date of the last interest, or state that for the last two years there has been no indication of owner interest in the property.
 - d) Identify the digital financial asset by number or identifier, which need to exceed four digits.
 - e) Indicate that the digital financial asset is in danger of escheating to the state.
 - f) Specify that the UPL requires business associations to transfer the digital financial asset if it has been unclaimed for three years.
 - g) Include a form, prescribed by the Controller, by which the owner may confirm the owner's current address, and which the owner may return to the holder to avoid escheat.
- 6) Provides that, in addition to the notice required in 3), the holder may give additional notice at any time between the date of last owner interest and the date the holder transfers the digital financial asset to the Controller.
- 7) Provides that the holder of a digital financial asset subject to escheat shall, no more than 30 days after the final date for filing a report with the Controller regarding escheated property, transfer the exact digital financial asset type and amount, unliquidated, to the Controller's cryptocurrency custodian or as the Controller designates by regulation.
- 8) Permits the Controller to decline to take property of unclaimed digital financial assets if, in their discretion, they determine that it is not in the best interest of the state to take custody and notify the holder in writing of that determination within 120 days of the receipt of the holder's report.
- 9) Provides that escheated digital financial assets delivered to the Controller shall be sold, and the assets or the value thereof shall be recovered by a person making a valid claim, in the same manner as provided for escheated securities.

- 10) Makes technical and conforming changes to reflect the addition of digital financial assets set forth above..

COMMENTS

1. Author's comment

According to the author:

If a financial asset is left untouched for a certain period, it's considered Unclaimed Property under California law. This law already covers a wide range of assets, like bank accounts, stocks, insurance policies, and trusts. That coverage is understood to include virtual currencies as well. SB 822 updates California's Unclaimed Property Law to make that inclusion explicit. While much of the bill aligns with how other types of property are already handled, it helps clear up any confusion and ensures virtual currencies are treated consistently.

2. Background on the UPL

The UPL provides for the "escheat" of unclaimed personal property to the state, which is the reversion of property to the state due to the failure of the owner of the property to inherit or claim the property.¹ When property escheats to the state, the state assumes custody of the property in perpetuity, unless and until the owner claims the property.² "The UPL is not a permanent or 'true' escheat statute" because it does not transfer legal ownership of the property to the state.³

There are three significant players under the UPL: the owner, the holder, and the state. The "owner" is the person to whom the property actually belongs.⁴ The "holder" is the person who has possession of the property, such as a bank holding funds or a brokerage account holding securities.⁵ Holders of unclaimed property have no interest in the unclaimed property; they are simply trustees of the property while the property is in their possession.⁶ The third party is the state, which assumes custody of unclaimed property from the holder. The state's custody has two purposes: by assuming custody of unclaimed property, the state can protect the owner's interests; and, less altruistically, custody of unclaimed property allows the state to benefit from the use of the unclaimed property until the rightful owner comes along.⁷

¹ Code Civ. Proc., pt. 3, tit. 10, ch. 7, §§ 1500 et seq.

² *Id.*, § 1540.

³ *Azure Limited v. I-Flow Corp.* (2009) 46 Cal.4th 1323, 1328 (some internal quotation marks removed); Civ. Code, § 1501.5.

⁴ *Id.*, § 1501(g).

⁵ *Id.*, § 1501(e).

⁶ *Bank of America v. Cory* (1985) 164 Cal.App.3d 66, 74

⁷ *Azure Limited*, *supra*, at p. 1328.

The UPL establishes procedures to be followed when property goes unclaimed, generally for a period of three years, and custody reverts to the state.⁸ The holder must file an annual report on unclaimed property and turn the property over to the Controller at the time the report is filed.⁹ Assuming the Controller does not decline to take custody of the property,¹⁰ the holder then must transfer the property to the Controller within a specified time.¹¹ The Controller then holds the property or sells it and holds the proceeds in perpetuity, unless and until the rightful owner makes a claim for its return.¹² The Controller retains the interest or other income on property or moneys that accrue after the state takes custody of the property.¹³

3. Digital financial assets: don't lose your keys

A digital financial asset is “a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender,” with exceptions for affinity and rewards programs, representations of value in video games, and assets regulated by the United States Securities and Exchange Commission.¹⁴ The most common type of digital financial asset is cryptocurrency – Bitcoin, Ethereum, Tether, and so on.

Cryptocurrency and other digital financial assets have no tangible form, so unlike U.S. dollars – which can be held electronically or physically – they are necessarily bought, sold, held, and traded electronically. A person can manage their cryptocurrency in two ways: directly through the blockchain that maintains the records of the particular cryptocurrency, using their private keys; or through an exchange, which facilitates trades and may offer passkey storage services.¹⁵ Exchanges are generally easier to navigate, and provide an easy method for converting cryptocurrency into fiat currency.¹⁶

The decentralized nature of cryptocurrency, particularly Bitcoin, means that there's often no easy way to recover lost account information – Bitcoin doesn't have a help desk with someone asking for your mother's maiden name. As a result, it's common for people to purchase cryptocurrencies and then lose their passkeys, locking them out of

⁸ Code Civ. Proc., § 1520.

⁹ *Id.*, § 1530.

¹⁰ *Id.*, § 1533.

¹¹ *Id.*, § 1532.

¹² *Id.*, §§ 1540, 1563.

¹³ *Id.*, § 1562.

¹⁴ Fin. Code, § 3601.

¹⁵ See Levitin, *Not Your Keys, Not Your Coins: Unpriced Credit Risk in Cryptocurrency* (Mar. 2023) 101 Tex. L. Rev. 877, 882.

¹⁶ *Ibid.*

their accounts with no easy way to get back in.¹⁷ By one estimate, 3.8 million bitcoins are in inaccessible accounts, an amount currently worth over \$100 billion.¹⁸

Cryptocurrency exchanges can be more helpful; Coinbase, for example, has a passkey recovery process. Yet even then, it seems that a significant amount of cryptocurrency is sitting in functionally abandoned accounts.¹⁹

4. This bill requires unclaimed digital financial assets to be transferred to the state pursuant to the UCL

While the UPL establishes procedures for the escheat of a number of forms of intangible property,²⁰ it does not clearly address digital financial assets. This bill, therefore, establishes the procedures and requirements by which digital financial assets will escheat to the state. The bill provides for escheat along the same lines as other intangible personal assets, except that, once a holder has reported to the Controller that it is holding covered digital financial assets, it must transfer the assets within 30 days to the Controller's cryptocurrency custodian. The Controller retains the discretion to decline to take custody of the assets if it determines that doing so is not in the best interest of the state. The Controller is tasked with selling off the assets in the same manner as securities, and the rightful owner can claim their assets, or the value of their assets once sold, through the existing claim procedure.

As noted above, the decentralized nature of some digital financial assets may mean there is no "holder" capable of transmitting the assets to the Controller. To the extent there is such a holder, however, this bill should permit the Controller to take possession of digital financial assets and keep them for the benefit of their rightful owners, unless and until the owner applies for the return of the property.

SUPPORT

State Controller Malia M. Cohen (sponsor)

¹⁷ E.g., Popper, *Lost Passwords Lock Millionaires Out of Their Bitcoin Fortunes* (Jun. 25, 2023) N.Y. Times, available at <https://www.nytimes.com/2021/01/12/technology/bitcoin-passwords-wallets-fortunes.html>. All links in this analysis are current as of April 16, 2025.

¹⁸ Royal, *Are your lost bitcoins gone forever? Here's how you might be able to recover them* (Oct. 10, 2024) Yahoo! Finance, <https://finance.yahoo.com/news/lost-bitcoins-gone-forever-might-201517564.html>. Not all of these bitcoins are necessarily lost forever; there's now a cottage industry of firms promising they can recover lost cryptocurrency keys, some of whom use hacking techniques to circumvent security protections. E.g., Greenberg, *They Cracked the Code to a Locked USB Drive Worth \$235 Million in Bitcoin. Then It Got Weird* (Oct. 24, 2023) WIRED, available at <https://www.wired.com/story/unciphered-ironkey-password-cracking-bitcoin/>.

¹⁹ Popper, *supra*.

²⁰ Civ. Code, §§ 1510-1528.

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation:

SB 849 (Weber Pierson, 2025) provides that property distributable in the course of a court-ordered or court-approved settlement is deemed abandoned in specified circumstances, and provides for the escheat to the state of that property. SB 849 is pending before this Committee.

AB 1502 (Valencia, 2025) among other things, provides that intangible property held in a digital asset account escheats to the state three years after written or electronic communication to the owner is returned undelivered, and requires the holder of the key for the digital asset account that has escheated to the state to transfer the digital asset to a custodian designated by the Controller. AB 1502 is pending before the Assembly Banking and Finance Committee.

AB 1447 (Gipson, 2025) provides that the Controller need provide physical mail notice to a potential owner under the UPL only if the mail address provided for the person is a valid deliverable address. AB 1447 is pending before the Assembly Appropriations Committee.

Prior legislation:

AB 2280 (Reyes, Ch. 282, Stats. 2022) authorized the Controller to establish the California Voluntary Compliance Program, for the voluntary compliance of holders for the purpose of resolving unclaimed property that is due and owing to the state under the UPL.

SB 301 (Min, Ch. 103, Stats. 2021) lowered the amount under the UPL at which point a transfer of unclaimed cash must be paid to the Controller via electronic transfer, from \$20,000 to \$2,000.
