

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 308 (Min)
Version: February 4, 2021
Hearing Date: March 9, 2021
Fiscal: Yes
Urgency: No

SUBJECT

Unclaimed property: electronic funds transfer

DIGEST

This bill reduces the minimum amount at which unclaimed cash subject to escheat must be transferred to the Controller via electronic funds transfer, from \$20,000 to \$2,000.

EXECUTIVE SUMMARY

Under current law, when a person or entity transfers unclaimed cash subject to escheat to the Controller, the transfer must be made via an electronic funds transfer if the amount of cash is \$20,000 or over. This bill would reduce the amount at which an electronic funds transfer is required, to \$2,000.

The bill is sponsored by the California Controller, who states that lowering the mandatory electronic funds transfer floor will simplify and streamline the process for transferring unclaimed cash to the state, thus speeding up the process by which the Controller can attempt to locate the owner. There is no known opposition to the bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Unclaimed Property Law, which sets forth the circumstances under which unclaimed personal property escheats to the state; the means of identifying unclaimed personal property; and the procedures for the state to take possession of the property and attempt to locate the owner. (Code Civ. Proc., part 3, tit. 10, ch. 7, §§ 1500 et seq.)
- 2) Provides that any person or entity holding unclaimed personal property subject to escheat must provide a report to the Controller identifying the property, the possible owners, and the possible owners' last known address. (Code Civ. Proc., § 1530.)
- 3) Provides that the property reported as subject to escheat must be transferred to the Controller no sooner than seven months, and no later than seven months and fifteen days, after the report is filed; upon receipt of the property, the Controller has one year to provide notice to the potential owner(s) that the Controller has the property. (Code Civ. Proc., § 1531.)
- 4) Provides that, when a report identifies an amount of cash of \$20,000 or more as subject to escheat, the cash must be transferred to the Controller via electronic funds transfer. (Code Civ. Proc., § 1532.)

This bill:

- 1) Reduces the floor for when unclaimed cash must be transferred to the Controller via electronic funds transfer, from \$20,000 to \$2,000.

COMMENTS

1. Author's comment

According to the author:

SB 308 would eliminate unnecessary red tape and bring our unclaimed property processes up to date with the technological changes we've seen in the 21st century. Electronic funds transfers today are simple, convenient and secure, and this bill would expand its usage so that it's easier for Californians to reclaim their funds.

2. Reducing the amount at which cash must be transferred to the Controller via electronic funds transfer is a reasonable measure to streamline those transfers

Under current law, a person or entity transferring to the Controller money to be escheated to the state must do so via electronic funds transfer if the amount is \$20,000 or more.¹ The \$20,000 floor was put into place in 1996.² In the 25 years since then, online banking has gone from a novelty to a feature of everyday life, making it much easier for a person or entity to send money to the Controller via an electronic funds transfer. Moreover, as the Controller explains, the current practice of allowing monies to be sent via check increases the risk that transfers will go missing or be stolen from the mail; can lead to processing backlogs when the Controller received a glut of checks all at once; and generally slows down the transfer process. By lowering the floor for required electronic transfers from \$20,000 to \$2,000, this bill will reduce the number of transfers subject to those risks and burdens. In the absence of opposition, this appears to be a reasonable compromise to make the process for transferring unclaimed cash to the state more efficient while still permitting non-electronic transfers of smaller-value payments.

SUPPORT

Office of State Controller Betty Yee (sponsor)

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

AB 293 (Kalra, 2021) would permit funds held in a preneed funeral trust to escheat to the state if all the requirements of the Unclaimed Property Law are met. AB 293 is pending before the Assembly Judiciary Committee.

Prior Legislation:

SB 495 (Fuller, Ch. 305, Stats. 2011) imposed additional limitations to when property held in a deposit or account could escheat to the state under the Unclaimed Property Law.

AB 1291 (Niello, Ch. 522, Stats. 2009) permitted the Controller to postpone the date for delivery of escheated property held in a deposit or account upon their own motion or at the request of a person filing a report on the property subject to escheat.

¹ Code Civ. Proc., § 1532(a).

² SB 2014 (Alquist, Ch. 762, Stats. 1996).