

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JULY 6, 1999

AMENDED IN SENATE JUNE 14, 1999

AMENDED IN ASSEMBLY MAY 25, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 444

Introduced by Assembly Member Dutra

February 16, 1999

An act to add Section 1578 to the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 444, as amended, Dutra. Unclaimed property: escheat.

Under existing law, property and accounts that are held by a business that is unclaimed for more than specified periods escheats to the state. Existing law requires persons holding unclaimed property to report and deliver it to the Controller, and imposes interest and criminal penalties for a failure to do so.

This bill would require the Controller to establish an amnesty program to allow holders of unclaimed property who may be delinquent in their duty to pay or deliver unclaimed property to the state or its authorized agent to surrender the property without incurring interest assessments. It would provide that any person who pays or delivers property to the

Controller in accordance with this section shall not be subject to any ~~monetary or criminal penalty~~ *statutory interest* with respect to that property. The amnesty program would apply only to property that is reported and delivered to the Controller ~~between January 1, 2000 on and after January 1, 2000, and July 31 before August 1, 2000, inclusive.~~ *The bill would provide that if, prior to January 1, 2000, the holder of the property files a statement with the Controller regarding the holder's intention to remit property under the amnesty program, the Controller or the Controller's authorized representative may not initiate a new audit on and after the date the statement is received and until August 1, 2000.* The bill would authorize the Controller to audit any holder or person submitting an unclaimed property report under the amnesty program, and would require the Controller to submit a report on the amnesty program to the Legislature to be published no later than August 31, 2001. The bill would also impose various requirements with respect to the program.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 1578 is added to the Code of Civil
 2 Procedure, to read:
 3 1578. (a) The State Controller shall establish an
 4 amnesty program to allow holders of unclaimed property
 5 who may be delinquent in their duty to pay or deliver
 6 unclaimed property to the State of California or to its
 7 authorized agent to surrender the property without
 8 incurring interest assessments. Any person who pays or
 9 delivers property to the State Controller in accordance
 10 with this section shall not be subject to any ~~monetary or~~
 11 ~~criminal penalty~~ *statutory interest* with respect to that
 12 property.
 13 (b) The amnesty program shall apply only to property
 14 that is reported and delivered to the State Controller
 15 ~~between January 1, 2000, and July 31, 2000, inclusive.~~ *on*
 16 *or after January 1, 2000 and prior to August 1, 2000.*



1 (c) The amnesty program shall apply if the following
2 requirements are met:

3 (1) The holder of the property is not at the time of
4 surrender the subject of an investigation *by the Attorney*
5 *General* or audit by the Controller *or the Controller's*
6 *authorized representative*, or a party to litigation,
7 affecting the property. *If, prior to January 1, 2000, the*
8 *holder of the property files a statement with the*
9 *Controller regarding the holder's intention to remit*
10 *property under the amnesty program, the Controller or*
11 *the Controller's authorized representative may not*
12 *initiate a new audit of the holder of the property*
13 *concerning that property on and after the date the*
14 *statement is received by the Controller's office and until*
15 *August 1, 2000.*

16 (2) The property was required to be reported on or
17 before November 1, 1998.

18 (3) The property is surrendered directly to the state or
19 its authorized agent.

20 (4) Reports respecting the property are reported by
21 electronic media satisfactory to the State Controller,
22 provided that paper reports shall be permitted with
23 respect to holders reporting fewer than 50 accounts or
24 other items.

25 ~~(5) Reports are made separately from other reports in~~
26 ~~a manner satisfactory to the State Controller.~~

27 (5) *All property reportable on or before November 1,*
28 *1998, shall be reported on a separate amnesty report. It*
29 *shall not be reported with property not eligible for the*
30 *amnesty program.*

31 (6) The property is surrendered at the time the report
32 is made.

33 (7) Securities are remitted in accordance with Section
34 1532.

35 (8) Records shall be maintained in a manner
36 satisfactory to the State Controller, to permit verification
37 and compliance audits.

38 ~~(9) The holder shall be required to have made the~~
39 ~~current annual report in a timely manner.~~



- 1 (d) The State Controller shall conduct an outreach
2 and publicity program.
- 3 (e) The State Controller shall have the right to audit
4 for unclaimed property, and shall have the right to audit
5 any holder or person submitting an unclaimed property
6 report under this amnesty program. Nothing in this
7 section, or in the amnesty program adopted by the
8 Controller, shall preclude assessment or enforcement of
9 any existing penalty or law applicable to submission of a
10 false, incomplete, inaccurate, or misleading report of
11 unclaimed property to the Controller. No reporting or
12 filing extensions shall be granted for property under this
13 section.
- 14 (f) Any person who fails to report and surrender
15 property that could be reported and surrendered under
16 this section shall, in addition to other penalties provided
17 by law, pay an additional penalty equal to 13 percent of
18 all principal and interest otherwise due with respect to
19 that property.
- 20 (g) The Controller shall submit a report to the
21 Legislature on the amnesty program. The report shall
22 include a comprehensive accounting of all unclaimed
23 property surrendered under the amnesty program and
24 the identities of the holders of surrendered unclaimed
25 property. The report shall be published no later than
26 August 31, 2001.

