

Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 2332 (Katra) – As Amended May 4, 2020

Policy Committee: Judiciary

Vote: 11 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

**SUMMARY:**

This bill establishes procedures for when and how preneed funeral arrangements that are not claimed upon the beneficiary's death should escheat to the state under the Unclaimed Property Law (UPL). Specifically, this bill

- 1) Requires, effective January 1, 2021, preneed funeral trust accounts to transfer to the California State Controller Office (SCO) pursuant to the UPL if, for more than three years after the funds become payable and distributable, neither the trustor nor the beneficiary indicates an interest in the trust property.
- 2) Requires preneed funeral trusts be viewed as payable and distributable to the SCO or family members under any of the following circumstances:
  - a) The beneficiary has attained, or would have attained if still living, 105 years of age.
  - b) 45 years have passed since execution of the contract establishing the preneed funeral arrangement.
  - c) The holder has received notification of the death or presumed death of the beneficiary and has not provided the contracted-for funeral goods and services.
  - d) If the preneed funeral trust is an installment trust, the amount due has not been paid in the three preceding years, and neither the trustor nor the beneficiary has communicated with the funeral establishment or the trustee about the trust during that time.

**FISCAL EFFECT:**

Costs (Unclaimed Property Fund) to the SCO of \$846,000 in FY 2020-21, \$782,000 in FY 2021-22 and \$492,000 in FY 2022-23 and annually thereafter for seven additional staff to distribute eligible preneed funeral trusts. Three of the seven positions are limited term and not ongoing. SCO also estimates a potentially significant increase in revenue to the Unclaimed Property Fund, which may be transferred to the GF for claims in perpetuity.

**COMMENTS:****1) Purpose and Background.** According to the author:

AB 2332 protects consumers and their surviving loved ones by providing a convenient way to locate and claim unused preneed trust fund that could be otherwise held indefinitely

Preneed funeral arrangements are made between a person and a funeral home wherein the person pays the cost of the service and burial in advance. The funeral home acts as trustee and may receive administrator fees until the benefit is paid out. However, since arrangements are often made so far in advance of death, a person's children or heirs may forget or may have never known the contract existed. As a result, the deceased person's family never receives the benefit of the preneed contract and the funeral home retains the funds in perpetuity – continuing to collect administrative fees.

This bill creates a process that will allow these long forgotten sums of money to escheat to the SCO so that it may be distributed pursuant to the UPL. The UPL requires banks, insurance companies, corporations, and certain other entities to report and submit their customers' property to the SCO when there has been no activity for a period of time, generally three years. Common types of unclaimed property are bank accounts, stocks, bonds, uncashed checks, insurance benefits, wages, and safe deposit box contents. SCO notes additional staff costs are driven by receipt of a new type of unclaimed property from funeral service providers. Additional staff is necessary to identify possible owners or heirs entitled to receipt of preneed funeral proceeds.

**2) Arguments in Support.** According to the State Controller's Office:

This bill [clarifies] the party responsible for reporting abandoned trust accounts, outline dormancy triggering events and establish requirements for contact with owners of trust accounts. AB 2332 will enhance consumer protections and create a clear mechanism for people to locate and claim unused preneed funeral trust accounts.

**3) Related Legislation.**

- a) AB 1637 (Smith), Chapter 320, Statutes of 2019, allowed the State Controller to transfer property reported to the state under the UPL in the name of a local agency or state agency directly to that agency without the filing of a claim by the agency.
- b) AB 2198 (Ting) requires the SCO, by January 1, 2022, to implement additional measures designed to secure payment of claims, including minimizing the number of documents a person must submit for claims under \$5,000. AB 2198 is pending in this committee