

SENATE THIRD READING

SB 822 (Becker)

As Amended July 16, 2025

Majority vote

SUMMARY

Clarifies California's Unclaimed Property Law to expressly include unclaimed digital assets such as cryptocurrency.

Major Provisions

- 1) Adds definitions within the Unclaimed Property Law (UPL), including:
 - a) "Digital financial asset" has the same meaning as in Section 3102(g) of the Financial Code.
 - b) "Private key" means a unique element of cryptographic data used for signing transactions on a blockchain that is known to the owner of the element.
- 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 either of the following:
 - a) The date a written or electronic communication to the owner is returned undelivered by the United States Postal Service or by electronic mail or other electronic messaging method, as applicable.
 - b) The date of the last exercise of ownership interest by the owner in the digital asset account if the owner does not receive written or electronic communications from the holder or the holder does not have the means of systematically tracking or monitoring the nondelivery of those communications.
- 3) Establishes that the running of the three-year period under 2) ceases immediately upon the exercise of an act of ownership interest in the digital asset account or written, oral, or electronic communication with the holder as evidenced by a memorandum or other record on file with the holder or its agents.
- 4) Provides that an "exercise of an act of ownership interest" includes any of the following actions by the owner regarding the digital asset account:
 - a) Conducting a transaction regarding the digital asset account, including buying or selling digital assets, depositing into or withdrawing from the account fiat currency or other property whether by a one-time transaction or a recurring transaction previously authorized by the owner.
 - b) Electronically accessing the digital asset account.
 - c) Conducting any activity with respect to another digital asset account or any other property owned by the owner with the same holder.
 - d) Taking any other action that reasonably demonstrates to the holder that the owner knows that the property exists.

- 5) Establishes that the last known address of an apparent owner, for the purpose of determining the jurisdiction over property subject to escheat pursuant to this section, is any description, code, or other indication of the location of the apparent owner that identifies the state of last known address, even if the description, code, or indication of the location is not sufficient to direct the delivery of first-class United States Postal Service mail to the apparent owner.
- 6) 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.
- 7) Requires the notice sent pursuant to 6) 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 needs 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.
- 8) Provides that, in addition to the notice required in 6), 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.
- 9) Establishes that the holder of any partial key to any digital financial asset must attempt to obtain the minimum number of keys required to transfer the digital financial assets within 60 days of determination that the digital financial assets are eligible for escheatment.

- 10) 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.
- 11) Establishes that if the digital financial assets have been sold, the person is entitled to receive the net proceeds received by the Controller from its sale.
- 12) Provides that digital financial assets held by the Controller may be converted to fiat currency at prevailing prices by any method that the Controller may determine to be advisable; establishes that a person is entitled to receive the net proceeds received by the Controller from its sale.
- 13) Provides that the Controller may select one or more custodians for the management and safekeeping of digital financial assets that have escheated to the state. Provides that such custodian must hold a valid license issued by the Department of Financial Protection and Innovation.
- 14) Requires the Controller to consider certain criteria, including proven experience in handling financial assets, storage security, capability to manage private keys, and other relevant factors, in selecting a custodian.
- 15) Makes technical and conforming changes to reflect the addition of digital financial assets set forth above.

COMMENTS

This bill modernizes California's Unclaimed Property Law (UPL) to expressly include digital financial assets—such as cryptocurrency—within the scope of property that may escheat to the state when unclaimed. While existing law already covers intangible property, it does not specifically address virtual currencies or clarify how such assets should be reported, valued, or transferred. This omission has led to uncertainty for custodians and gaps in consumer protection.

The Unclaimed Property Law (UPL). California's Unclaimed Property Law (UPL), first enacted in 1959 and now codified primarily at Code of Civil Procedure (CCP) Sections 1500-1582, governs the process by which unclaimed personal property escheats to the state. The policy rationale behind the law is twofold: to reunite owners with their property and, pending such reunion, to allow the state to utilize the property for the public benefit. The UPL is not a traditional escheat statute in the classical sense, where title to abandoned property permanently vests in the sovereign. Instead, it creates a custodial escheat framework: title to the property does not pass to the state. Rather, the state assumes possession and holds the property in perpetuity as a trustee for the rightful owner. (*Harris v. Westly* (2004) 116 Cal.App.4th 214, 219 (internal quotations omitted), *Bank of America v. Cory* (1985) 164 Cal.App.3d 66, 75.) This custodial model was designed to preserve individual property rights while permitting the state to benefit from the use of dormant funds. (*Azure Limited v. I-Flow Corp.* (2009) 46 Cal.4th 1323, 1328 (internal quotations omitted).)

The UPL involves three distinct actors: the owner, or the person/entity with the rightful claim to the property, the holder, who is typically the business or financial institution who is in possession of the property that becomes abandoned, and the state controller who assumes custody of the

unclaimed property from the holder and then administers claims, and manages the unclaimed property fund. The holder acts as a fiduciary and must report and remit property to the state when it is presumed abandoned. (CCP Sections 1530-32.) Once in the controller's custody, the property is either retained (in the case of tangible property) or liquidated and deposited in the Unclaimed Property Fund.

The UPL applies to a wide range of intangible personal property, including bank accounts, uncashed checks, wages, stocks, and insurance proceeds. Property is presumed abandoned if it remains unclaimed by its owner for a statutory dormancy period—usually three years, but shorter for wages (usually one year) and longer for traveler's checks (15 years). (CCP Sections 1513, 1517, 1520.) Once the controller takes custody of the property it may earn income or interest from the property, which is deposited into the General Fund, while the principal remains subject to claim by the owner indefinitely. (CCP Sections 1540, 1570.) An owner can reclaim the property indefinitely, as there is no statute of limitations.

This bill clarifies and updates California's UPL to expressly include digital financial assets, such as cryptocurrency, within its scope. Specifically, the bill provides that digital financial assets held or maintained by a business association or other entity in the ordinary course of business are subject to escheat to the state under the same conditions and dormancy periods that apply to other forms of intangible personal property. In doing so, the bill ensures that holders of digital assets—such as cryptocurrency exchanges or wallet providers—have clear obligations to report and transfer unclaimed digital assets to the State Controller after the passage of a defined dormancy period.

The bill also 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. This definition excludes affinity or rewards programs (such as airline miles), in-game currencies, and assets regulated by the U.S. Securities and Exchange Commission. The bill further authorizes the Controller to adopt regulations necessary to implement these provisions, including rules governing how holders must report, value, and transfer such assets. SB 822 permits the Controller to convert the digital assets to fiat currency within a limited time period, and enables the owner to receive the net proceeds. The bill also permits the Controller to select one or more custodians for the management and safekeeping of digital assets that have escheated to the state in consideration of certain criteria.

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.

Arguments in Support

Malia M. Cohen, California State Controller, the bill's sponsor explains the need for this modernization measure:

As California's Chief Fiscal Officer, I administer the state's Unclaimed Property Program. Current unclaimed property law covers intangible assets, which includes all manner of financial assets such as bank accounts, stocks, insurance policies, trusts, and, by inference, virtual currencies. However, the unclaimed property law was largely constructed prior to the advent of virtual currencies and remains silent on the timelines and processes by which these assets should escheat to the state and subsequently managed within the program. The absence of explicit provisions has prevented holders from reporting unclaimed virtual currency accounts, limiting the State Controller's Office's (SCO) ability to conduct owner reunification efforts and undermining the program's intent.

Senate Bill 822 brings clarity and consistency to this area of the law by treating the property in the same manner in which securities are treated. Specifically, the bill achieves the following:

- 1) Clarifies the inclusion of virtual currency in unclaimed property law.
- 2) Aligns notification procedures with existing law.
- 3) Requires in-kind transfer of property to the state.
- 4) Allows the Controller to decline custody if it is not in the state's best interest.
- 5) Mandates the sale of escheated virtual currency following a standard holding period, after which the proceeds remain available for the rightful owner in perpetuity.

This bill also ensures that California implements best practices for managing abandoned digital assets. It will provide necessary consumer protections as well as practical administration, and a clear legal path forward for holders of unclaimed virtual currency.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Ongoing costs in the low millions of dollars to the SCO to administer the return of DFAs through the UPL (Unclaimed Property Fund). The SCO anticipates needing \$717,000 in fiscal year (FY) 2026-27 for five positions, \$1.1 million in FY 2027-28 for eight positions, \$1.5 million in FY 2028-29 for 11 positions, and \$1.8 million in FY 2029-30 and annually thereafter for 13 positions to accommodate increased workload, including DFA management, reconciliation, analysis, and payment processes. The SCO notes that the current volume of unclaimed DFAs is unknown, so costs may be higher to the extent this bill results in a substantial increase in the amount of escheated property received and a corresponding increase in owner claims. The SCO may also need additional resources for information technology updates after the scope of the project is determined.
- 2) Negligible costs to DFPI, as DFPI will already be licensing entities under the Digital Financial Assets Law (DFAL) that would likely be selected as a custodian.

VOTES**SENATE FLOOR: 38-0-2**

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Limón, Reyes

ASM JUDICIARY: 12-0-0

YES: Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Harabedian, Macedo, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM BANKING AND FINANCE: 9-0-0

YES: Valencia, Chen, Dixon, Fong, Krell, Michelle Rodriguez, Blanca Rubio, Schiavo, Soria

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Dixon, Ta, Tangipa

UPDATED

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