

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

339V0645

SENATE BILL NO. 138

Introduced by: Senators Lederman, Rampelberg, and Rave and Representatives Greenfield,
Bartling, Latterell, and Russell

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to title-based
2 escheatment of abandoned United States savings bonds and the proceeds thereof.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 43-41B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 (a) Notwithstanding the provisions of §§ 43-41B-3, 43-41B-14, 43-41B-18, 43-41B-19,
7 43-41B-20, 43-41B-21, 43-41B-23, and 43-41B-36, United States savings bonds which are
8 unclaimed property and subject to the provisions of chapter 43-41B shall escheat to this state
9 three years after becoming unclaimed property and subject to the provisions of chapter 43-41B
10 and all property rights and legal title to and ownership of such United States savings bonds or
11 proceeds from such bonds, including all rights, powers, and privileges of survivorship of any
12 owner, co-owner, or beneficiary, shall vest solely in this state.

13 (b) Within one hundred eighty days after the three year period in subsection (a), if no claim
14 has been filed in accordance with the provisions of chapter 43-41B for such United States
15 savings bonds, the administrator shall commence a civil action in the Sixth Judicial Circuit for



1 a determination that such United States savings bonds shall escheat to this state. The
2 administrator may postpone the bringing of such action until sufficient United States savings
3 bonds have accumulated in the administrator's custody to justify the expense of the proceedings.

4 (c) The administrator shall make service by publication of the proceeding in Hughes County
5 in accordance with § 15-9-7. The notice shall name any defendant to be served and notify the
6 defendant:

7 (1) The defendant has been sued in a named court;

8 (2) The defendant shall answer the petition or other pleading or otherwise defend, on or
9 before a specified date, not less than forty-one days after the date the notice is first
10 published; and

11 (3) If the defendant does not answer or otherwise defend, the petition or other pleading
12 will be taken as true and judgment, the nature of which will be stated, will be
13 rendered accordingly.

14 In addition, before service by publication under this section can be made, the
15 administrator or the administrator's attorney shall file an affidavit or a declaration
16 stating all of the following facts that apply:

17 (i) The residences of all named defendants sought to be served, if known, and the
18 names of all defendants whose residences are unknown after reasonable effort
19 to ascertain them and the specific efforts made to ascertain their residences;

20 (ii) The affiant or declarant has made a reasonable but unsuccessful effort to
21 ascertain the names and residences of any defendants sought to be served as
22 unknown parties and the specific efforts made to ascertain the names and
23 residences;

24 (iii) The party seeking service by publication is unable to obtain service of

1 summons on the defendants in this state; and

2 (iv) The case is one in which the party with due diligence is unable to serve
3 summons on the defendant in this state and:

4 (A) The case relates to or involves real or personal property in this state, if
5 any defendant has or claims a lien or interest, vested or contingent, in
6 the property; or

7 (B) In which the relief demanded consists wholly or partly in excluding the
8 defendant from any interest in the property.

9 (d) If no person files a claim or appears at the hearing to substantiate a claim, or where the
10 court determines that a claimant is not entitled to the property claimed by such claimant, then
11 the court, if satisfied by evidence that the administrator has substantially complied with the laws
12 of this state, shall enter a judgment that the subject United States savings bonds have escheated
13 to this state, and all property rights and legal title to and ownership of such United States
14 savings bonds or proceeds from such bonds, including all rights, powers, and privileges of
15 survivorship of any owner, co-owner, or beneficiary, have vested solely to this state.

16 (e) The administrator shall redeem such United States savings bonds escheated to the state
17 and the proceeds from the redemption of United States savings bonds shall be deposited into an
18 account in the state treasury in accordance with the provisions of § 43-41B-24.

19 (f) Any person making a claim for the United States savings bonds escheated to the state
20 under this section, or for the proceeds from such bonds, may file a claim in accordance with the
21 provisions of chapter 43-41B. Upon providing sufficient proof of the validity of the person's
22 claim, the administrator may pay the claim in accordance with the provisions of chapter 43-41B.

23 Section 2. That § 43-41B-1 be amended to read as follows:

24 43-41B-1. As used in this chapter, unless the context otherwise requires:

- 1 (1) "Administrator," the state treasurer;
- 2 (2) "Apparent owner," the person whose name appears on the records of the holder as the
3 person entitled to property held, issued, or owing by the holder;
- 4 (3) "Attorney general," the chief legal officer of this state;
- 5 (4) "Banking organization," any bank, trust company, savings bank, industrial bank, land
6 bank, safe deposit company, private banker, or any organization defined by other law
7 as a bank or banking organization;
- 8 (5) "Business association," a nonpublic corporation, joint stock company, investment
9 company, business trust, partnership, cooperative, or association for business
10 purposes of two or more individuals, whether or not for profit, including a banking
11 organization, financial organization, insurance company, or utility;
- 12 (6) "Domicile," the state of incorporation of a corporation or the state of the principal
13 place of business of an unincorporated person;
- 14 (7) "Financial organization," a savings and loan association, cooperative bank, building
15 and loan association, or credit union;
- 16 (8) "Holder," a person, wherever organized or domiciled, who is:
 - 17 (i) In possession of property belonging to another;
 - 18 (ii) A trustee; or
 - 19 (iii) Indebted to another on an obligation;
- 20 (9) "Insurance company," an association, corporation, fraternal or mutual benefit
21 organization, whether or not for profit, which is engaged in providing insurance
22 coverage, including accident, burial, casualty, credit life, contract performance,
23 dental, fidelity, fire, health, hospitalization, illness, life (including endowments and
24 annuities), malpractice, marine, mortgage, surety, and wage protection insurance;

- 1 (10) "Intangible property," includes, ~~but is not limited to:~~
- 2 (i) Moneys, checks, drafts, deposits, interest, dividends, unpaid mineral proceeds,
- 3 royalties, vendor checks, income, unpaid commissions, unpaid overcharges,
- 4 and unpaid accounts payable;
- 5 (ii) Credit balances, customer overpayments, gift certificates, security deposits,
- 6 refunds, credit memos, unpaid wages, unused airline tickets, and unidentified
- 7 remittances;
- 8 (iii) Stocks and other intangible ownership interests in business associations;
- 9 (iv) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or
- 10 to make distributions;
- 11 (v) Amounts due and payable under the terms of insurance policies; ~~and~~
- 12 (vi) Amounts distributable from a trust or custodial fund established under a plan
- 13 to provide health, welfare, pension, vacation, severance, retirement, death,
- 14 stock purchase, profit sharing, employee savings, supplemental unemployment
- 15 insurance, or similar benefits; and
- 16 (vii) United States savings bonds held or owing in this state by any person, or
- 17 issued or owed in the course of a holder's business, or by a state or other
- 18 government, governmental subdivision, agency, or instrumentality;
- 19 (11) "Last known address," a description of the last known location of the apparent owner
- 20 sufficient for the purpose of the delivery of mail;
- 21 (12) "Owner," a depositor in the case of a deposit, a beneficiary in case of a trust other
- 22 than a deposit in trust, a creditor, claimant, or payee in the case of other intangible
- 23 property, or any other person having a legal or equitable interest in property subject
- 24 to this chapter or his legal representative;

- 1 (13) "Person," an individual, business association, state or other government,
2 governmental subdivision or agency, public corporation, public authority, estate,
3 trust, two or more persons having a joint or common interest, or any other legal or
4 commercial entity;
- 5 (14) "Property," includes, ~~but is not limited to,~~ money, rights to claim refunds or rebates,
6 postal savings deposits, bonds, United States savings bonds, notes, certificates,
7 policies of insurance, other instruments of value, choses-in-action, obligations
8 whether written or unwritten and anything of value of any nature whatsoever;
- 9 (15) "State," any state, district, commonwealth, territory, insular possession, or any other
10 area subject to the legislative authority of the United States;
- 11 (16) "Utility," a person who owns or operates for public use any plant, equipment,
12 property, franchise, or license for the transmission of communications or the
13 production, storage, transmission, sale, delivery, or furnishing of electricity, water,
14 steam, or gas.