



2025 South Dakota Legislature

House Bill 1196

Introduced by: **Representative Muckey**

1 **An Act to update Uniform Unclaimed Property Act to include provisions related to**
 2 **virtual currency and notice requirements.**

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

4 **Section 1. That § 43-41B-1 be AMENDED:**

5 **43-41B-1.** ~~As used in this chapter, unless the context otherwise requires~~Terms in
 6 this chapter mean:

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

- (9) "Insurance company," an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life—~~(including endowments and annuities)~~, malpractice, marine, mortgage, surety, and wage protection insurance;
- (10) "Intangible property," includes:
- ~~(i)~~(a) Moneys, checks, drafts, deposits, interest, dividends, unpaid mineral proceeds, royalties, vendor checks, income, unpaid commissions, unpaid overcharges, and unpaid accounts payable;
 - ~~(ii)~~(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
 - ~~(iii)~~(c) Stocks and other intangible ownership interests in business associations;
 - ~~(iv)~~(d) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;
 - ~~(v)~~(e) Amounts due and payable under the terms of insurance policies;
 - ~~(vi)~~(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits; and
 - ~~(vii)~~(g) United States savings bonds held or owing in this state by any person, or issued or owed in the course of a holder's business, or by a state or other government, governmental subdivision, agency, or instrumentality;
- (11) "Last known address," ~~a any description of the last known location of the apparent owner sufficient for the purpose of the delivery of mail, code, or other indication of the location of the apparent owner, which identifies the state where the apparent owner is located, even if the description, code, or other indication of location is not sufficient to direct the delivery of first-class United States mail to the apparent owner;~~
- (12) "Owner," a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or any other person having a legal or equitable interest in property subject to this chapter or his legal representative;

- (13) "Person," an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity;
- (14) "Property," includes money, rights to claim refunds or rebates, postal savings deposits, bonds, United States savings bonds, notes, certificates, policies of insurance, other instruments of value, choses-in-action, obligations whether written or unwritten and anything of value of any nature whatsoever;
- (15) "State," any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States;
- (15A) "Unclaimed Property Division," a division within the Office of the State Treasurer;
- (16) "Utility," a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; and
- (17) "Virtual currency," a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States, but not including:
- (a) The software or protocols governing the transfer of the digital representation of value;
- (b) Game-related digital content; or
- (c) A loyalty or gift card.

Section 2. That a NEW SECTION be added to chapter 43-41B:

Virtual currency is deemed abandoned three years after the latest indication of interest. The administrator may decline to accept virtual currency presumed abandoned if, in the administrator's discretion:

(1) The virtual currency is not freely transferable;

(2) The virtual currency is of nominal value; or

(3) The value of the virtual currency is less than the estimated expenses of maintenance, notice, or sale.

The administrator may prescribe, by rule promulgated pursuant to chapter 1-26, classes or types of virtual currency exempt from reporting or liquidation.

1 Except as otherwise provided in this section, a holder of unclaimed virtual currency
2 shall liquidate the virtual currency within thirty days prior to the filing of the report
3 required by § 43-41B-18 and remit the proceeds to the administrator.

4 If the holder is unable to liquidate the virtual currency, or reasonably believes the
5 virtual currency cannot be liquidated, the holder must promptly provide written notice to
6 the administrator explaining why the virtual currency cannot be liquidated as required by
7 this section, and the administrator must direct the holder concerning an alternate
8 disposition of the virtual currency.

9 An owner does not have recourse against the administrator or the holder to recover
10 any gain in value that occurs after the liquidation of the virtual currency pursuant to this
11 section.

12 For purposes of this section, "indication of interest" means any action or
13 communication by an apparent owner that demonstrates the apparent owner's knowledge
14 of the existence of property held, issued, or owing by the holder or the apparent owner's
15 intent to retain ownership of property held, issued, or owing by the holder.

16 **Section 3. That § 43-41B-18 be AMENDED:**

17 **43-41B-18.** ~~(a)~~ A person holding property, tangible or intangible, which is
18 presumed abandoned and subject to custody as unclaimed property under this chapter,
19 shall report to the administrator concerning the property as provided in this section. The
20 expiration of any period of time specified by statute or court order, during which an action
21 or proceeding may be commenced or enforced to obtain payment of a claim for money or
22 recovery of property, does not prevent the money or property from being presumed
23 abandoned property, nor or affect any duty to file a report required by this chapter or to
24 pay or deliver abandoned property to the state treasurer.

25 The holder of unclaimed property shall, before filing the annual report required by
26 this section, communicate with the owner and take necessary steps to prevent
27 abandonment from being presumed by exercising due diligence to ascertain the
28 whereabouts of the owner. This includes the mailing of For property having a value of fifty
29 dollars or more, the holder shall mail notice to each person having an address if the person
30 is entitled to the property of the value of fifty dollars or more presumed abandoned under
31 this chapter, except that mailing of notice is not required if the holder's records indicate
32 the owner's address is inaccurate.

33 The mailed notice shall must contain:

1 ~~(1)~~ A statement that, according to the records of the holder, property is being
2 held, to which the addressee appears to be entitled;

3 ~~(2)~~ Information regarding any changes of the name of the holder; and

4 ~~(3)~~ A statement that the property, and which will escheat to the state. The notice
5 must also contain information regarding any changes of the name of the holder. In the
6 case of securities deemed abandoned pursuant to subdivision 43-41B-2(a) and § 43-41B-
7 10, or safe deposit box contents deemed abandoned pursuant to § 43-41B-17, the notice
8 must state that the property may be sold by the administrator. In the case of virtual
9 currency deemed abandoned pursuant to section 2 of this Act, the notice must state that
10 the property may be sold by the holder prior to remittance to the administrator.

11 ~~(b)~~ The report must be verified and must include:

12 (1) Except with respect to travelers checks and money orders, the name, if known,
13 and last known address, if any, of each person appearing from the records of the
14 holder to be the owner of property of the value of ten dollars or more presumed
15 abandoned under this chapter;

16 (2) In the case of unclaimed funds of ten dollars or more held or owing under any life
17 or endowment insurance policy or annuity contract, the full name and last known
18 address of the insured or annuitant and of the beneficiary according to the records
19 of the insurance company holding or owing the funds;

20 (3) In the case of the contents of a safe deposit box or other safekeeping repository
21 or of other tangible property, a description of the property and the place where it
22 is held and may be inspected by the administrator and any amounts owing to the
23 holder;

24 (4) The nature and identifying number, if any, or description of the property and the
25 amount appearing from the records to be due, ~~but~~ provided that items of value
26 under ten dollars each may be reported in the aggregate;

27 (5) The date the property became payable, demandable, or returnable, and the date
28 of the last transaction with the apparent owner with respect to the property; and

29 (6) Other information the administrator prescribes by rule as necessary for the
30 administration of this chapter.

31 ~~(c)~~ If the person holding property presumed abandoned and subject to custody as
32 unclaimed property is a successor to other persons who previously held the property for
33 the apparent owner, ~~or the holder has changed his or her~~ holder's name has changed
34 while holding the property, the person shall holder must file with the report all known
35 names and addresses of each previous holder of the property.

1 ~~(d)~~ The report must be filed before November first of each year as of June thirtieth,
2 next preceding, but the report of any life insurance company must be filed before May
3 first of each year as of December thirty-first next preceding. On written request by any
4 person required to file a report, the administrator may postpone the reporting date or
5 waive any interest fees or penalties.

6 ~~(e) The holder in possession of property presumed abandoned and subject to~~
7 ~~custody as unclaimed property under this chapter shall, between the time of the~~
8 ~~commencement and the termination of the applicable dormancy period, send written~~
9 ~~notice to the apparent owner at the owner's last known address informing the owner that~~
10 ~~the holder is in possession of property subject to this chapter if:~~

11 ~~(1) The holder has in its records an address for the apparent owner which the~~
12 ~~holder's records disclose to be accurate;~~

13 ~~(2) The claim of the apparent owner is not barred by the statutes of limitations;~~
14 ~~and~~

15 ~~(3) The property has a value of fifty dollars or more.~~