

AN ACT

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

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

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

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

(b) Within one hundred eighty days after the three year period in subsection (a), if no claim has been filed in accordance with the provisions of chapter 43-41B for such United States savings bonds, the administrator shall commence a civil action in the Sixth Judicial Circuit for a determination that such United States savings bonds shall escheat to this state. The administrator may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the administrator's custody to justify the expense of the proceedings.

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

- (1) The defendant has been sued in a named court;
- (2) The defendant shall answer the petition or other pleading or otherwise defend, on or

before a specified date, not less than forty-one days after the date the notice is first published; and

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

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

- (i) The residences of all named defendants sought to be served, if known, and the names of all defendants whose residences are unknown after reasonable effort to ascertain them and the specific efforts made to ascertain their residences;
- (ii) The affiant or declarant has made a reasonable but unsuccessful effort to ascertain the names and residences of any defendants sought to be served as unknown parties and the specific efforts made to ascertain the names and residences;
- (iii) The party seeking service by publication is unable to obtain service of summons on the defendants in this state; and
- (iv) The case is one in which the party with due diligence is unable to serve summons on the defendant in this state and:
 - (A) The case relates to or involves real or personal property in this state, if any defendant has or claims a lien or interest, vested or contingent, in the property; or
 - (B) In which the relief demanded consists wholly or partly in excluding the defendant from any interest in the property.

- (d) If no person files a claim or appears at the hearing to substantiate a claim, or where the court

determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the administrator has substantially complied with the laws of this state, shall enter a judgment that the subject United States savings bonds have escheated to this state, and all property rights and legal title to and ownership of such United States savings bonds or proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, have vested solely to this state.

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

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

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

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

- (1) "Administrator," the state treasurer;
- (2) "Apparent owner," the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder;
- (3) "Attorney general," the chief legal officer of this state;
- (4) "Banking organization," any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization;
- (5) "Business association," a nonpublic corporation, joint stock company, investment company, business trust, partnership, cooperative, or association for business purposes

of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility;

- (6) "Domicile," the state of incorporation of a corporation or the state of the principal place of business of an unincorporated person;
- (7) "Financial organization," a savings and loan association, cooperative bank, building and loan association, or credit union;
- (8) "Holder," a person, wherever organized or domiciled, who is:
 - (i) In possession of property belonging to another;
 - (ii) A trustee; or
 - (iii) 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) Moneys, checks, drafts, deposits, interest, dividends, unpaid mineral proceeds, royalties, vendor checks, income, unpaid commissions, unpaid overcharges, and unpaid accounts payable;
 - (ii) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
 - (iii) Stocks and other intangible ownership interests in business associations;
 - (iv) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to

- make distributions;
- (v) Amounts due and payable under the terms of insurance policies;
 - (vi) 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) 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 description of the last known location of the apparent owner sufficient for the purpose of the delivery of mail;
- (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;

- (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.

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I certify that the attached Act
originated in the

SENATE as Bill No. 138

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 138
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State