

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

193H0024

SENATE BILL NO. 55

Introduced by: Senator Olson (Ed) and Representatives Olson (Mel) and Sebert

1 FOR AN ACT ENTITLED, An Act to revise the circumstances under which certain financial
2 instruments are presumed abandoned.

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

4 Section 1. That § 43-41B-6 be amended to read as follows:

5 43-41B-6. (a) Any demand, savings, or matured time deposit with a banking or financial
6 organization, including a deposit that is automatically renewable, and any funds paid toward the
7 purchase of a share, a mutual investment certificate, or any other interest in a banking or financial
8 organization is presumed abandoned unless in the case of a matured time deposit, the banking
9 or financial organization has mailed, at least once in five years certified mail requesting a return
10 receipt, to the owner and the receipt has been returned and signed by the addressee, or unless
11 the owner, within five years has:

12 (1) In the case of a deposit, increased or decreased its amount or presented the passbook
13 or other similar evidence of the deposit for the crediting of interest;

14 (2) Communicated in writing with the banking or financial organization concerning the
15 property;



1 (3) Otherwise indicated an interest in the property as evidenced by a memorandum or
2 other record on file prepared by an employee of the banking or financial organization;

3 (4) Owned other property to which paragraph (1), (2), or (3) applies and if the banking
4 or financial organization communicates in writing with the owner with regard to the
5 property that would otherwise be presumed abandoned under this subsection at the
6 address to which communications regarding the other property regularly are sent; ~~or~~

7 (5) Had another relationship with the banking or financial organization concerning which
8 the owner has:

9 (i) Communicated in writing with the banking or financial organization; or

10 (ii) Otherwise indicated an interest as evidenced by a memorandum or other record
11 on file prepared by an employee of the banking or financial organization and
12 if the banking or financial organization communicates in writing with the owner
13 with regard to the property that would otherwise be abandoned under this
14 subsection at the address to which communications regarding the other
15 relationship regularly are sent; or

16 (6) Received tax reports or regular statements of the deposit by mail from the banking or
17 financial organization regarding the deposit. Receipt of the statement by the owner
18 is presumed if the statement is mailed first class by the banking or financial
19 organization and not returned.

20 (b) For purposes of subsection (a) property includes any income, increments, interest, or
21 dividends.

22 (c) A holder may not impose with respect to property described in subsection (a) any charge
23 due to dormancy or inactivity or cease payment of interest unless:

24 (1) There is an enforceable written contract between the holder and the owner of the

1 property pursuant to which the holder may impose a charge or cease payment of
2 interest;

3 (2) For property in excess of two dollars, the holder, no more than three months before
4 the initial imposition of those charges or cessation of interest, has given written notice
5 to the owner of the amount of those charges at the last known address of the owner
6 stating that those charges will be imposed or that interest will cease, but the notice
7 provided in this section need not be given with respect to charges imposed or interest
8 ceased before July 1, 1993; and

9 (3) The holder regularly imposes such charges or ceases payment of interest and does not
10 regularly reverse or otherwise cancel them or retroactively credit interest with respect
11 to the property.

12 (d) Any property described in subsection (a) that is automatically renewable is matured for
13 purposes of subsection (a) upon the expiration of its initial time period, but in the case of any
14 renewal to which the owner consents at or about the time of renewal by communicating in
15 writing with the banking or financial organization or otherwise indicating consent as evidenced
16 by a memorandum or other record on file prepared by an employee of the organization, the
17 property is matured upon the expiration of the last time period for which consent was given. If,
18 at the time provided for delivery in § 43-41B-20, a penalty or forfeiture in the payment of
19 interest would result from the delivery of the property, the time for delivery is extended until the
20 time when no penalty or forfeiture would result.