

AN ACT

ENTITLED, An Act to revise the circumstances under which certain financial instruments are presumed abandoned.

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

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

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

- (1) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
- (2) Communicated in writing with the banking or financial organization concerning the property;
- (3) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
- (4) Owned other property to which paragraph (1), (2), or (3) applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent;
- (5) Had another relationship with the banking or financial organization concerning which the owner has:

- (i) Communicated in writing with the banking or financial organization; or
 - (ii) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent; or
- (6) Received tax reports or regular statements of the deposit by mail from the banking or financial organization regarding the deposit. Receipt of the statement by the owner is presumed if the statement is mailed first class by the banking or financial organization and not returned.

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

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

- (1) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;
- (2) For property in excess of two dollars, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before July 1, 1993; and
- (3) The holder regularly imposes such charges or ceases payment of interest and does not

regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property.

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

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I certify that the attached Act originated in the

SENATE as Bill No. 55

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. 55
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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

Governor

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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