

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

400Y0282

SENATE BILL NO. 34

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to securities held as
2 unclaimed property and to declare an emergency.

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

4 Section 1. That § 43-41B-23 be amended to read:

5 43-41B-23. (a) Except as provided in subsections (b) and (c), the administrator, within three
6 years after the receipt of abandoned property, shall sell it the property to the highest bidder at
7 public sale in whatever city in the state affords, in the judgment of the administrator, the most
8 favorable market for the property involved. The administrator may decline the highest bid and
9 reoffer the property for sale if in the judgment of the administrator the bid is insufficient. If in
10 the judgment of the administrator the probable cost of sale exceeds the value of the property,
11 it the property need not be offered for sale. Any sale held under this section ~~must~~ shall be
12 preceded by a ~~single~~ publication of notice, at least three weeks in advance of sale, in a
13 newspaper of general circulation in the county in which the property is to be sold.

14 (b) Securities listed on an established stock exchange ~~must~~ shall be sold at prices prevailing
15 at the time of sale on the exchange. Other securities may be sold over the counter at prices



1 prevailing at the time of sale or by any other method the administrator considers advisable.

2 ~~(c) Unless the administrator considers it to be in the best interest of the state to do otherwise,~~
3 ~~all securities, other than those presumed abandoned under § 43-41B-10, delivered to the~~
4 ~~administrator must be held for at least one year before he may sell them. The state treasurer shall~~
5 ~~sell all stocks, bonds, and other negotiable instruments within ninety days of confirmed receipt~~
6 ~~of such instruments, unless the property is on an open claim. The state treasurer is not liable for~~
7 ~~any loss or gain in the value that the instrument would have obtained had the instrument been~~
8 ~~held instead of being sold.~~

9 ~~(d) Unless the administrator considers it to be in the best interest of the state to do otherwise,~~
10 ~~all securities presumed abandoned under § 43-41B-10 and delivered to the administrator must~~
11 ~~be held for at least three years before he may sell them. If the administrator sells any securities~~
12 ~~delivered pursuant to § 43-41B-10 before the expiration of the three-year period, any person~~
13 ~~making a claim pursuant to this chapter before the end of the three-year period is entitled to~~
14 ~~either the proceeds of the sale of the securities or the market value of the securities at the time~~
15 ~~the claim is made, whichever amount is greater, less any deduction for fees pursuant to~~
16 ~~subsection 43-41B-24(b). A person making a claim under this chapter after the expiration of this~~
17 ~~period is entitled to receive either the securities delivered to the administrator by the holder, if~~
18 ~~they still remain in the hands of the administrator, or the proceeds received from sale, less any~~
19 ~~amounts deducted pursuant to subsection 43-41B-24(b), but no person has any claim under this~~
20 ~~chapter against the state, the holder, any transfer agent, registrar, or other person acting for or~~
21 ~~on behalf of a holder for any appreciation in the value of the property occurring after delivery~~
22 ~~by the holder to the administrator.~~

23 ~~—(e) The purchaser of property at any sale conducted by the administrator pursuant to this~~
24 ~~chapter takes the property free of all claims of the owner or previous holder thereof of the~~

1 property and of all persons claiming through or under ~~them~~ the owner or previous holder. The
2 administrator shall execute all documents necessary to complete the transfer of ownership.

3 Section 2. That § 43-41B-25 be amended to read:

4 43-41B-25. (a) A person, excluding another state, claiming an interest in any property paid
5 or delivered to the administrator may file ~~with him~~ a claim on a form prescribed by ~~him~~ the
6 administrator and verified by the claimant.

7 (b) The administrator shall consider each claim within ninety days after it is filed and give
8 written notice to the claimant if the claim is denied in whole or in part. The notice may be given
9 by ~~mailing it~~ sending the notice to the last address or, if any, stated in the claim as the address
10 to which notices are to be sent. If no address for notices is stated in the claim, the notice may
11 be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial
12 need be given if the claim fails to state either the last address to which notices are to be sent or
13 the address of the claimant.

14 (c) If a claim is allowed, the administrator shall pay over or deliver to the claimant the
15 property or the amount the administrator actually received or the net proceeds if it has been sold
16 by the administrator, together with any additional amount required by § 43-41B-22. If the claim
17 is for property presumed abandoned under § 43-41B-10 which was sold by the administrator
18 within ~~three years after the date of delivery~~ ninety days of confirmed receipt of the property, the
19 amount payable for that claim is the ~~value of the property at the time the claim was made or the~~
20 ~~net proceeds of sale, whichever is greater~~. When property is paid or delivered to the
21 administrator under this chapter, the owner is not entitled to receive income or other increments
22 accruing thereafter.

23 Section 3. That chapter 43-41B be amended by adding a NEW SECTION to read:

24 All securities, stocks, bonds, or other intangible ownership interests in business associations

1 held by the Unclaimed Property Division with any value shall be sold after the passage of this
2 Act.

3 Section 4. That § 43-41B-1 be amended by adding a NEW SUBDIVISION to read:

4 "Unclaimed Property Division," a division within the Office of the State Treasurer;

5 Section 5. Whereas, this Act is necessary for the support of the state government and its
6 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
7 full force and effect from and after its passage and approval.