

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2193

BY DELEGATE SHOTT

[Passed March 9, 2019; in effect ninety days from
passage.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding thereto a new section, designated §36-8-2a, all relating to
3 providing for the specific escheat of United States savings bonds and all rights and legal
4 title thereto; defining “United States savings bond”; providing that a United States savings
5 bond held or owing in West Virginia shall be presumed abandoned if the last known
6 address of the owner is in West Virginia and the United States savings bond has remained
7 unclaimed and unredeemed for a period of five years after final maturity; setting forth a
8 procedure by which abandoned, lost, stolen and destroyed United States savings bonds
9 may escheat to the state; requiring the State Treasurer to commence a civil action for a
10 determination that a United States savings bond shall escheat to the state; requiring
11 service by publication; providing that claimants may appear in court to defend their right
12 to the subject bond or bonds; requiring the court to enter a judgment vesting title in the
13 state if the State Treasurer has substantially complied with required procedure and no
14 valid claim is made for a United States savings bond; requiring the Treasurer to redeem
15 United States savings bonds that have escheated to the state; permitting the State
16 Treasurer to pay collection and recovery costs from United States savings bond proceeds;
17 requiring the State Treasurer to deposit remaining balance of proceeds into the Unclaimed
18 Property Fund; permitting persons to file claims for escheated United States savings
19 bonds or proceeds thereof after a United States savings bond has escheated to the state;
20 and barring subsequent actions against the state after payment has been made to a
21 claimant.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-1. Definitions.

1 As used in this article:

2 (1) “Administrator” means the State Treasurer.

3 (2) "Apparent owner" means a person whose name appears on the records of a holder as
4 the person entitled to property held, issued or owing by the holder.

5 (3) "Business association" means a corporation, joint stock company, investment
6 company, partnership, unincorporated association, joint venture, limited liability company,
7 business trust, trust company, safe deposit company, financial organization, insurance company,
8 mutual fund, utility or other business entity consisting of one or more persons, whether or not for
9 profit.

10 (4) "Domicile" means the state of incorporation of a corporation and the state of the
11 principal place of business of a holder other than a corporation.

12 (5) "Financial organization" means a savings and loan association, bank, banking
13 organization or credit union.

14 (6) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the
15 owner property that is subject to this article.

16 (7) "Insurance company" means an association, corporation, or fraternal or mutual benefit
17 organization, whether or not for profit, engaged in the business of providing life endowments,
18 annuities or insurance, including accident, burial, casualty, credit life, contract performance,
19 dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage,
20 surety, wage protection and workers' compensation insurance.

21 (8) "Mineral" means gas; oil; coal; other gaseous, liquid and solid hydrocarbons; oil shale;
22 cement material; sand and gravel; road material; building stone; chemical raw material; gemstone;
23 fissionable and nonfissionable ores; colloidal and other clay; steam and other geothermal
24 resource; or any other substance defined as a mineral by the law of this state.

25 (9) "Mineral proceeds" means amounts payable for the extraction, production or sale of
26 minerals, or, upon the abandonment of those payments, all payments that become payable
27 thereafter. The term includes amounts payable:

28 (i) For the acquisition and retention of a mineral lease, including bonuses, royalties,
29 compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

30 (ii) For the extraction, production or sale of minerals, including net revenue interests,
31 royalties, overriding royalties, extraction payments and production payments; and

32 (iii) Under an agreement or option, including a joint operating agreement, unit agreement,
33 pooling agreement and farm-out agreement.

34 (10) "Money order" includes an express money order and a personal money order, on
35 which the remitter is the purchaser. The term does not include a bank money order or any other
36 instrument sold by a financial organization if the seller has obtained the name and address of the
37 payee.

38 (11) "Owner" means a person who has a legal or equitable interest in property subject to
39 this article or the person's legal representative. The term includes a depositor in the case of a
40 deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant
41 or payee in the case of other property.

42 (12) "Person" means an individual, business association, financial organization, estate,
43 trust, government, governmental subdivision, agency or instrumentality, or any other legal or
44 commercial entity.

45 (13) "Property" means tangible personal property described in section three of this article
46 or a fixed and certain interest in intangible personal property that is held, issued or owed in the
47 course of a holder's business, or by a government, governmental subdivision, agency or
48 instrumentality, and all income or increments therefrom. The term includes property that is
49 referred to as or evidenced by:

50 (i) Money, a check, draft, warrant for payment issued by the State of West Virginia, deposit,
51 interest or dividend;

52 (ii) Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit
53 memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance;

54 (iii) Stock or other evidence of ownership of an interest in a business association or
55 financial organization;

56 (iv) A bond, debenture, note or other evidence of indebtedness;

57 (v) Money deposited to redeem stocks, bonds, coupons or other securities or to make
58 distributions;

59 (vi) An amount due and payable under the terms of an annuity or insurance policy,
60 including policies providing life insurance, property and casualty insurance, workers'
61 compensation insurance or health and disability insurance; and

62 (vii) An amount distributable from a trust or custodial fund established under a plan to
63 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit
64 sharing, employee savings, supplemental unemployment insurance or similar benefits.

65 (14) "Record" means information that is inscribed on a tangible medium or that is stored
66 in an electronic or other medium and is retrievable in perceivable form.

67 (15) "State" means a state of the United States, the District of Columbia, the
68 Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of
69 the United States.

70 (16) "United States savings bond" means property, tangible or intangible, in the form of a
71 savings bond issued by the United States Treasury whether in paper form, electronic or paperless
72 form, along with the proceeds thereof.

73 (17) "Utility" means a person who owns or operates for public use any plant, equipment,
74 real property, franchise or license for the transmission of communications or the production,
75 storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas as defined in
76 §24-1-2 of this code.

§36-8-2a. Escheat of United States savings bonds.

1 (a) Notwithstanding any other section of this article or any other section of this code to the
2 contrary, United States savings bonds held or owing in this state by any person, or issued, or

3 owed, in the course of a holder's business, by a state or other government, governmental
4 subdivision, agency, or instrumentality, and all proceeds thereof, shall be presumed abandoned
5 in the state if:

6 (1) The last known address of the owner of the United States savings bond is in this state;
7 and

8 (2) The United States savings bond has remained unclaimed and unredeemed for a period
9 of five years after final maturity.

10 (b) United States savings bonds which are presumed abandoned under §36-8-2a(a) of
11 this code, including bonds in the possession of the administrator, and those lost, stolen or
12 destroyed bonds registered to persons with last known addresses in this state, shall, upon
13 satisfaction by the administrator of the requirements of §36-8-2a(c) through (e) of this code,
14 escheat to the State of West Virginia one year after such bonds are presumed abandoned, and
15 all property rights and legal title to, and ownership of, the United States savings bonds or proceeds
16 from the bonds, including all rights, powers and privileges of survivorship of any owner, co-owner,
17 or beneficiary, shall vest solely in the State of West Virginia, subject only to the provisions of §36-
18 8-15 and §36-8-16 of this code.

19 (c) After the expiration of the one-year period prescribed in §36-8-2a(b) of this code, if no
20 claim has been filed pursuant to the provisions of §36-8-15 and §36-8-16 of this code for such
21 United States savings bonds, but before such savings bonds escheat to the State of West Virginia,
22 a civil action must be commenced by the administrator in the circuit court of Kanawha County, or
23 in any other court of competent jurisdiction, for a determination that such United States savings
24 bonds shall escheat to the State of West Virginia.

25 (d) The administrator shall make service by publication of the civil action in accordance
26 with Rule 4(e) of the West Virginia Rules of Civil Procedure.

27 (e) Any person claiming ownership, including all persons claiming rights, powers and
28 privileges of survivorship and any co-owner or beneficiary, or his or her agent, may appear and

29 defend his or her rights to the subject bond or bonds, and if the court is satisfied that the claimant
30 is entitled to the bond or bonds, the court may award judgment in the claimant's favor. If no person
31 files a claim or appears at the hearing to substantiate a claim, or if the court determines that a
32 claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by
33 evidence that the administrator has substantially complied with this section, shall enter a judgment
34 that the subject United States savings bonds have escheated to the State of West Virginia, and
35 all property rights and legal title to and ownership of such United States savings bonds or
36 proceeds from such bonds, including all rights, powers and privileges of survivorship of any
37 owner, co-owner or beneficiary, shall vest solely in the State of West Virginia.

38 (f) Upon being awarded a judgment that the United States savings bond or bonds have
39 escheated to the State of West Virginia, the administrator shall redeem such United States
40 savings bonds. Upon recovery of the proceeds of any United States savings bonds, the
41 administrator shall first pay all costs incident to the collection and recovery of such proceeds from
42 the proceeds of such United States savings bonds and shall thereafter promptly deposit the
43 remaining balance of such proceeds into the Unclaimed Property Fund pursuant to §36-8-13 of
44 this code.

45 (g) Notwithstanding any other section of this article or any other section of this code to the
46 contrary, any person making a claim for a United States savings bond escheated to the State of
47 West Virginia under this section, or for the proceeds of such bond, may file a claim with the
48 administrator pursuant to §36-8-15 of this code. Upon receipt of sufficient proof of the validity of
49 such person's claim, the administrator may, in his or her sole discretion, pay such claim less any
50 expenses and costs which have been incurred by the state in securing full title and ownership of
51 such property by escheat. If payment has been made to any claimant, no action thereafter may
52 be maintained by any other claimant against the state or any officer thereof, for, or on account of,
53 such funds.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Noore Caputo
.....
Chairman, House Committee

E. F. T.
.....
Member — Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Steve Harris
.....
Clerk of the House of Delegates

Joe Corn
.....
Clerk of the Senate

Lee Haskew
.....
Speaker of the House of Delegates

Michael B. Carmichael
.....
President of the Senate

The within *is approved* this the *26th*
March
day of 2019.

James Justice
.....
Governor

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2019 MAR 26 A 10:43

FILED

PRESENTED TO THE GOVERNOR

MAR 25 2019

Time 2:40 pm