



January 24, 2017

The Honorable Larry Tidemann (Larry.Tidemann@sdlegislature.gov)
Chair, Senate Committee on Appropriations
The Honorable David Anderson (David.Anderson@sdlegislature.gov)
Chair, House Committee on Appropriations
Capitol Building
500 East Capitol Avenue
Pierre, SD 57501

Sent via E-mail

RE: SB 34 – An Act to revise certain provisions related to securities held as unclaimed property.

Dear Chairs Tidemann and Anderson:

The Securities Industry and Financial Markets Association (SIFMA)¹ is writing to express our concerns with Senate Bill 34, which would require the state treasurer to sell all stocks, bonds and other negotiable instruments held as unclaimed property within 90 days of confirmed receipt. This proposal is particularly concerning as savers or account owners who are not lost, but merely inactive, could have their entire securities accounts seized and liquidated nearly immediately thereafter. This liquidation can cause great financial harm to the state's residents and businesses under what are supposed to be consumer protection laws.

In 2011,² South Dakota paid out roughly 25% of its received property, meaning nearly \$4 million of escheated property was returned to its rightful owners.³ This is a significant amount of assets that were paid out to many South Dakotans – and, assuming claims in South Dakota follow a pattern roughly similar to other states, a large number of these claims were filed more than 90 days after the confirmed receipt of the Treasurer.

Further, by mandating the Treasurer sell this unclaimed property only 90 days after it is confirmed received, South Dakota would enact one of the shortest, consumer unfriendly laws in the nation – which would run directly counter to the national movement on this issue. In fact, the Uniform Law Commission adopted a Revised Uniform Unclaimed Property Act (RUUPA) just last year, where

¹ The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. For more information, visit <http://www.sifma.org>.

² The most recent year for which information is publicly available.

³ May 2014 submission of NAUPA to the Uniform Law Commission. Available at: <http://www.uniformlaws.org/shared/docs/Unclaimed%20Property/Comments%20-%20NAUPA.zip>.

State Treasurers supported language forbidding such a sale for at least 3 years, and mandating that the property be returned in either its original form or at full market value if a valid claim is filed within 6 years of receipt – both time frames which are much longer than the 90 days proposed in SB 34.

Furthermore, in addition to liquidation of savers' securities almost immediately, SB 34 would also remove important investor protections which allowed South Dakotans to recover the market value of their investments if they sought to recover their property after it was liquidated by the state – protections which, as they currently exist, are largely consistent with the RUUPA. Instead, SB 34 would strip savers of these protections and prevent them from recovering the full value of their property – which is especially problematic when the state liquidates long-term buy-and-hold investments, and that property loses significant value from many years of lost growth which savers were planning to use in their retirement.

SIFMA recognizes that this bill was designated as addressing an emergency situation, but we strongly urge you to resolve this issue in a way that does not disadvantage South Dakotan savers, and put the state in further conflict with both Federal Securities Laws and the RUUPA.

We thank you for your time and consideration. Please feel free to contact me, Nancy Lancia, at 212-313-1233 or nlancia@sifma.org if you have any questions or if there is any further information I can provide.

Sincerely,



Nancy Donohoe Lancia
SIFMA Managing Director
State Government Affairs

CC: Members, Senate Committee on Appropriations
Members, House Committee on Appropriations
Larry Deiter, Director, Division of Insurance and Securities, Department of Labor and Regulation (Larry.Deiter@state.sd.us)
Liza Clark, Commissioner, Bureau of Finance and Management (Liza.Clark@state.sd.us)