

Regular Session, 2014

SENATE BILL NO. 603

BY SENATOR ALARIO

UNCLAIMED PROPERTY. Provides procedure for the escheatment of United States savings bonds presumed abandoned. (gov sig)

1 AN ACT

2 To enact R.S. 9:182, relative to unclaimed property; to provide a procedure for the

3 escheatment of United States savings bonds presumed abandoned; and to provide for

4 related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:182 is hereby enacted to read as follows:

7 **§182. United States savings bonds; escheatment procedures**

8 **A. Notwithstanding any contrary provisions of law, United States**

9 **savings bonds which are unclaimed property and subject to the provisions of**

10 **this Chapter, shall escheat to the state three years after becoming unclaimed**

11 **property by virtue of the provisions of this Chapter, and all property rights and**

12 **legal title to and ownership of such United States savings bonds or proceeds**

13 **from such bonds, including all rights, powers, and privileges of survivorship of**

14 **any owner, co-owner or beneficiary, shall vest solely in the state according to the**

15 **procedure set forth in Subsections B through F of this Section.**

16 **B. Within one hundred eighty days after the three years prescribed in**

17 **Subsection A of this Section, if no claim has been filed in accordance with the**

1 provisions of this Chapter for such United States savings bonds, the
2 administrator shall commence a civil action in the Nineteenth Judicial District
3 Court for a determination that such United States savings bonds shall escheat
4 to the state. The administrator may postpone the bringing of such action until
5 sufficient United States savings bonds have accumulated in the custody of the
6 administrator to justify the expense of such proceedings.

7 C.(1) The administrator shall make service by publication of the
8 proceeding in the Nineteenth Judicial District Court in East Baton Rouge Parish
9 in accordance with R.S. 9:161. The notice shall name any defendant to be served
10 and notify the defendant of the following:

11 (a) The defendant has been sued in the Nineteenth Judicial District
12 Court.

13 (b) The defendant shall answer the petition or other pleading or
14 otherwise defend, on or before a specified date, not less than forty-one days
15 after the date the notice is first published.

16 (c) If the defendant does not answer or otherwise defend, the petition or
17 other pleading will be taken as true and judgment, the nature of which will be
18 stated, will be rendered accordingly.

19 (2) In addition, before service by publication under this Section can be
20 made, the administrator or the administrator's attorney shall file with the court
21 an affidavit or a declaration stating all of the following facts that apply:

22 (a) The residences of all named defendants sought to be served, if
23 known, and the names of all defendants whose residences are unknown after
24 reasonable effort to ascertain them and the specific efforts made to ascertain
25 their residences.

26 (b) The affiant or declarant has made a reasonable but unsuccessful
27 effort to ascertain the names and residences of any defendants sought to be
28 served as unknown parties and the specific efforts made to ascertain the names
29 and residences.

1 (c) The party seeking service by publication is unable to obtain service
2 of summons on the defendants in this state.

3 (d) The case is one in which the party with due diligence is unable to
4 serve summons on the defendant in this state and either:

5 (i) The case relates to or involves real or personal property in this state,
6 if any defendant has or claims a lien or interest, vested or contingent, in the
7 property.

8 (ii) In which the relief demanded consists wholly or partly in excluding
9 the defendant from any interest in the property.

10 D. If no person shall file a claim or appear at the hearing to substantiate
11 a claim or where the court determines that a claimant is not entitled to the
12 property claimed by such claimant, then the court, if satisfied by evidence that
13 the administrator has substantially complied with state law, shall enter a
14 judgment that the subject United States savings bonds have escheated to the
15 state, and all property rights and legal title to and ownership of such United
16 States savings bonds or proceeds from such bonds, including all rights, powers
17 and privileges of survivorship of any owner, co-owner or beneficiary, shall vest
18 solely in the state.

19 E. The administrator shall redeem such United States savings bonds
20 escheated to the state and the proceeds from such redemption of United States
21 savings bonds shall be deposited in the state treasury to the credit of the state
22 general fund. The administrator shall not deposit the proceeds from the
23 redemption of the United States savings bonds in the Bond Security and
24 Redemption Fund nor in the Unclaimed Property Leverage Fund in accordance
25 with the provisions of R.S. 9:165.

26 F. Any person making a claim for the United States savings bonds
27 escheated to the state under this Section, or for the proceeds from such bonds,
28 may file a claim in accordance with the provisions of this Chapter. Upon
29 providing sufficient proof of the validity of such person's claim, the

1 **administrator may, is his sole discretion, pay such claim in accordance with the**
 2 **provisions of this Chapter.**

3 Section 2. This Act shall become effective upon signature by the governor or, if not
 4 signed by the governor, upon expiration of the time for bills to become law without signature
 5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 7 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

Alario (SB 603)

Present law, the Uniform Unclaimed Property Act, provides for the disposition of various unclaimed property. The state treasurer is defined as the administrator of the Act.

Proposed law provides a procedure for the escheatment of United States savings bonds presumed abandoned. Provides that U.S. savings bonds which are unclaimed property and subject to present law shall escheat to the state three years after becoming unclaimed property by virtue of present law, and all property rights and legal title to and ownership of such bonds or proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner or beneficiary, shall vest solely in the state according to the procedure set forth in proposed law.

Provides that within 180 days after the three years prescribed in proposed law, if no claim has been filed in accordance with proposed law for such U. S. savings bonds, the administrator shall commence a civil action in the 19th JDC for a determination that such savings bonds shall escheat to the state. Provides that the administrator may postpone the bringing of such action until sufficient U.S. savings bonds have accumulated in his custody to justify the expense of such proceedings.

Requires that the administrator make service by publication of the proceeding in the 19th JDC in East Baton Rouge Parish in accordance with present law. Requires that the notice name any defendant to be served and notify the defendant of the following:

- (1) The defendant has been sued in the 19th JDC.
- (2) The defendant shall answer the petition or other pleading or otherwise defend, on or before a specified date, not less than 41 days after the date the notice is first published.
- (3) If the defendant does not answer or otherwise defend, the petition or other pleading will be taken as true and judgment, the nature of which will be stated, will be rendered accordingly.

Provides that, in addition, before service by publication under proposed law can be made, the administrator or the administrator's attorney shall file with the court an affidavit or a declaration stating all of the following facts that apply:

- (1) The residences of all named defendants sought to be served, if known, and the names

of all defendants whose residences are unknown after reasonable effort to ascertain them and the specific efforts made to ascertain their residences.

- (2) The affiant or declarant has made a reasonable but unsuccessful effort to ascertain the names and residences of any defendants sought to be served as unknown parties and the specific efforts made to ascertain the names and residences.
- (3) The party seeking service by publication is unable to obtain service of summons on the defendants in this state.
- (4) The case is one in which the party with due diligence is unable to serve summons on the defendant in this state and either:
 - (a) The case relates to or involves real or personal property in this state, if any defendant has or claims a lien or interest, vested or contingent, in the property.
 - (b) In which the relief demanded consists wholly or partly in excluding the defendant from any interest in the property.

Provides that if no person shall file a claim or appear at the hearing to substantiate a claim or where the court determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the administrator has substantially complied with state law, shall enter a judgment that the subject U. S. savings bonds have escheated to the state, and all property rights and legal title to and ownership of such U.S. savings bonds or proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner or beneficiary, shall vest solely in the state.

Provides that the administrator shall redeem such U. S. savings bonds escheated to the state and the proceeds from such redemption shall be deposited in the state treasury to the credit of the state general fund. Requires that the administrator not deposit the proceeds from the redemption of the U. S. savings bonds in the Bond Security and Redemption Fund nor in the Unclaimed Property Leverage Fund.

Provides that any person making a claim for U. S. savings bonds escheated to the state, or for the proceeds from such bonds, may file a claim in accordance with present law. Provides that upon providing sufficient proof of the validity of such person's claim, the administrator may, in his sole discretion, pay such claim in accordance with present law.

Otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 9:182)