

2015 DRAFTING REQUEST

Bill

Received: 11/9/2015 Received By: mduchek
For: Terry Katsma (608) 266-0656 Same as LRB:
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Pre Topic:

No specific pre topic given

Topic:

Allowing unclaimed U.S. savings bonds to escheat to state

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	kpleviak 12/8/2015	kmochal 11/20/2015	_____	srose 11/20/2015		State
/P2	kpleviak 12/18/2015	kmochal 12/10/2015	_____	sbasford 12/10/2015		State
/P3	kpleviak	kfollett	_____	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/7/2016	12/21/2015	_____	12/21/2015		
/1		kfollett 1/7/2016	_____	sbasford 1/7/2016	sbasford 1/7/2016	State

FE Sent For:

*at
intro*

<END>

Bemis, Zach

From: Ristow, Nathaniel L - DOR (Nate) <Nathaniel.Ristow@revenue.wi.gov>
Sent: Wednesday, September 16, 2015 4:36 PM
To: Bemis, Zach
Cc: Western, Jennifer N - DOR
Subject: U.S. Savings Bonds

Drafting Instructions

- Create sec. 177.01 (14a), Wis. Stats., as follows:

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

- Create sec. 177.135, Wis. Stats., as follows:

(1)

(a) United States savings bonds which are subject to the provisions of this chapter or held or owing in this state by any person, shall be presumed abandoned when such bonds have remained unclaimed and unredeemed for 5 years after their date of maturity.

(b) Any United States savings bond, having been abandoned as otherwise provided in this chapter and abandoned prior to the bond meeting the requirements for abandonment under par. (a), shall be presumed abandoned under this section when such bond has remained unclaimed and unredeemed for 5 years after its date of maturity.

(2) Notwithstanding ss. 177.13 and 177.22, United States savings bonds presumed abandoned under sub. (1), including bonds in the possession of the administrator and any lost, stolen, or destroyed bonds registered to persons with last-known addresses in this state, shall escheat to this state one year after such bonds are presumed abandoned, and all property rights and legal title to and ownership of such United States 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 of Wisconsin according to the procedure set forth in subs. (3) to (6).

(3) Notwithstanding s. 177.32, within 180 days after the period in sub. (2), if no claim has been filed with the administrator for such United States savings bonds, the administrator shall commence a civil action in the Circuit Court of the State Of Wisconsin, Dane County, or any other court of competent jurisdiction, for a determination that such United States savings bonds have escheated to this state, The administrator may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the custody of the administrator to justify the expense of such proceedings.

(4) The administrator shall make service by publication of the civil action in accordance with the provisions of s. 801.11 (1) (c) and the provisions of ch. 985 pertaining to class 3 notices.

(5) If no person shall file a claim or appear at the hearing to substantiate a claim or where the court shall determine 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 the laws of this state, shall enter a judgment that the subject United States savings bonds have escheated to this state, 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, have vested solely in the State of Wisconsin.

- (6) The administrator shall redeem United States savings bonds that have escheated to this state and shall first use the proceeds to pay all costs incident to the collection and recovery of such proceeds from the redemption of such bonds. The provisions of s. 177.23 shall apply to the remaining balance of the proceeds from such bonds.
- (7) The provisions of ss. 177.24 and 177.25 apply to claims for United States savings bonds or the proceeds from such bonds.

Nate Ristow
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State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3823/P1
KRP&JK... *klm*

IN: 11/17/15
DUE: 11/20/15 (Fri.)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

Generate Catalog
AN ACT ...; **relating to:** escheat of abandoned U.S. savings bonds.

Analysis by the Legislative Reference Bureau

This bill provides that a U.S. savings bond that has remained unredeemed for five years after it matured is presumed abandoned and subject to the custody of this state under this state's version of the Uniform Unclaimed Property Act. The bill also provides that an unredeemed bond that is presumed abandoned shall escheat to, and become the property of, this state one year after the bond is presumed abandoned or one year after the Secretary of Revenue publishes notice of the name of the person appearing to be the owner of the bond, whichever is later.

Under the bill, after a bond escheats, the secretary may commence an action for a declaratory judgment that the state owns the bond. Within a reasonable time after a bond escheats or a declaratory judgment action is concluded, the secretary shall redeem the bond and deposit the proceeds in the school fund.

At any time before a bond escheats, the rightful owner may file a claim with the secretary for the bond's return. After a bond escheats, the previous owner may file a claim with the secretary for return of the bond or payment of the amount for which the bond was redeemed, less administrative costs incurred by the secretary.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 177.01 (14m) of the statutes is created to read:

2 177.01 (14m) “U.S. savings bond” means a savings bond issued by the U.S.
3 department of the treasury, whether in paper, electronic, or paperless form, and
4 includes all proceeds of the savings bond.

5 **SECTION 2.** 177.12 (1) of the statutes is amended to read:

6 177.12 (1) ~~Intangible~~ Except as provided in s. 177.135, intangible property and
7 any income or increment derived from it held in a fiduciary capacity for the benefit
8 of another person is presumed abandoned unless the owner, within 5 years after it
9 has become payable or distributable, has increased or decreased the principal,
10 accepted payment of principal or income, communicated concerning the property or
11 otherwise indicated an interest as evidenced by a memorandum or other record on
12 file prepared by the fiduciary.

History: 1983 a. 408.

13 **SECTION 3.** 177.13 of the statutes is amended to read:

14 **177.13 Property held by courts and public agencies.** Except as provided
15 in ss. 40.08 (8), 177.135, 800.095 (8), 852.01 (3), 863.37 (2), and 863.39, intangible
16 property held for the owner by a court, state, or other government, governmental
17 subdivision, or agency, public corporation, or public authority that remains
18 unclaimed by the owner for more than one year after it became payable or
19 distributable is presumed abandoned.

History: 1983 a. 408; 1995 a. 27; 2009 a. 402.

20 **SECTION 4.** 177.135 of the statutes is created to read:

21 **177.135 U.S. savings bonds.** Notwithstanding s. 177.02 (1), a U.S. savings
22 bond that remains unredeemed by the owner for more than 5 years after the date of
23 maturity is presumed abandoned.

****NOTE: The interplay between ss. 177.135, 177.16, and 177.17 (1) and (4) (a) 2.
could result in a situation where the contents of a safe deposit box are presumed

abandoned and the holder must deliver the contents to the Secretary of Revenue, but the safe deposit box contains a U.S. savings bond that is not presumed abandoned and that the holder is not required to deliver to the secretary. Under s. 177.27 (2), the holder would be allowed, but would not be required, to deliver the bond to the secretary. Do you want to change the holder's obligation in this situation? Do you want a bond to be deemed abandoned in this situation?

1 **SECTION 5.** 177.16 of the statutes is amended to read:

2 **177.16 Contents of safe deposit box or other safekeeping repository.**

3 All Except as provided in s. 177.135, all tangible and intangible property held in a
4 safe deposit box or any other safekeeping repository in this state in the ordinary
5 course of the holder's business and proceeds resulting from the sale of the property
6 permitted by other law, which remain unclaimed by the owner for more than 5 years
7 after the lease or rental period on the box or other repository has expired, are
8 presumed abandoned.

9 ^lHistory: 1983 a. 408.

9 **SECTION 6.** 177.17 (2) (cm) of the statutes is created to read:

10 177.17 (2) (cm) In the case of a U.S. savings bond, the name and last-known
11 address of each person named on the U.S. savings bond and the issue date, face
12 amount, and serial number of the U.S. savings bond.

****NOTE: Under s. 177.18, the Secretary of Revenue must publish notice of the names of persons appearing to be owners of abandoned property, including the names identified in a report filed by a holder under s. 177.17 (1) and (2). I added this provision to ensure that the secretary receives notice of each person named on a U.S. savings bond, which, in turn, obligates the secretary to include these names in the secretary's publication under s. 177.18. Please let me know if this is not consistent with your intent.

****NOTE: Under s. 177.17 (5), the holder of abandoned property is required to give notice to the "apparent owner" of the property. In the case of a bond found in a safe deposit box, the apparent owner is the person who rented the safe deposit box, even if another person is named on the bond. Do you want to require a holder to give the notice required under s. 177.17 (5) to the person named on the bond?

13 **SECTION 7.** 177.22 (1) of the statutes is amended to read:

14 177.22 (1) Except as provided in subs. (2) and (4) and s. 177.225, the
15 administrator, within 3 years after the receipt of abandoned property, shall sell it to
16 the highest bidder in a manner that, in the judgment of the administrator, affords

1 the most favorable market for the property. The administrator may decline the
2 highest bid and reoffer the property for sale if, in his or her judgment, the bid is
3 insufficient. If the administrator determines that the probable cost of sale exceeds
4 the value of the property, it need not be offered for sale. Any public sale under this
5 section held in a city, village, or town in this state shall be preceded by the publication
6 of one notice, at least 3 weeks in advance of sale, in a newspaper of general circulation
7 in the county in which the property is to be sold.

8 History: 1983 a. 408; 1993 a. 246; 2001 a. 16; 2005 a. 400.

8 **SECTION 8.** 177.225 of the statutes is created to read:

9 **177.225 Escheat of U.S. savings bonds.** (1) A U.S. savings bond that is
10 subject to the custody of this state as unclaimed property under s. 177.03, including
11 a U.S. savings bond in the possession of the administrator and a U.S. savings bond
12 that has been lost, stolen, or destroyed, shall escheat to and become the property of
13 this state one year after the U.S. savings bond is presumed abandoned under s.
14 177.135 or one year after the administrator publishes the notice required under s.
15 177.18, whichever is later.

****NOTE: Are the conditions under s. 177.03, which determine under what
conditions property may be subject to the custody of this state, applicable to U.S. savings
bonds, or do you want to make different conditions apply?

****NOTE: Due process may require that notice be given before a bond escheats to
this state; therefore, I measured the date of escheatment from the date that notice is
given. Is this consistent with your intent?

****NOTE: This draft provides for a bond to escheat and become the property of the
state automatically after certain conditions are met. If it is your intent that ownership
of a bond will transfer to the state only after the court action under sub. (3) is completed,
please let me know.

16 (2) This state takes all legal title and interest, including all rights, powers, and
17 privileges of survivorship of any owner, co-owner, or beneficiary, of a U.S. savings
18 bond that has escheated to this state under sub. (1), and this state takes the U.S.

1 savings bond free of all claims of the owner or previous holder and of all persons
2 claiming through or under them.

3 (3) The administrator may bring an action for a declaratory judgment under
4 s. 806.04 that a U.S. savings bond has escheated to this state under sub. (1) and that
5 this state has the ownership interest described under sub. (2) in the U.S. savings
6 bond. The action may be commenced in the circuit court for Dane County or in any
7 county that would be a proper place of trial under s. 801.50. Service may be made
8 under s. 801.11 (1) (c) by publication of a notice published as a class 3 notice under
9 ch. 985. In determining which newspaper is likely to give notice as required under
10 s. 985.02 (1), the administrator shall consider the conditions under s. 177.03 that
11 made the U.S. savings bond subject to the custody of this state as unclaimed property.
12 The administrator may postpone commencing an action under this subsection until
13 sufficient U.S. savings bonds have escheated to this state to justify the expense of the
14 action.

****NOTE: I made the action for declaratory judgment optional rather than mandatory to account for the possibility that the U.S. Department of the Treasury rules may be changed in the future to not require court action. If you want a court action to be mandatory, please let me know. If it was not your intent that the court be an action for declaratory judgment, please let me know. *Re*

****NOTE: It appears that due process may require the Secretary of Revenue to make reasonable efforts to identify and serve interested parties, which may include the persons named on a U.S. savings bond or, if the persons are deceased, their heirs. Although this draft allows the secretary to provide service by publication, the secretary still must prove to the court that reasonable efforts were made to locate the rightful owners. Service by publication without these reasonable efforts may violate due process.

****NOTE: The proposed language includes a requirement that an action for declaratory judgment be commenced within 180 days after a bond escheats to the state. Given that the secretary can postpone bringing an action until the cost of bringing the action is justified, it is not clear what this 180-day language is intended to accomplish. Therefore, I did not include the language in this draft. Please give me a call if you want to discuss.

15 (4) In an action under sub. (3), if the court finds that the administrator has
16 substantially complied with the provisions of this chapter and that no other person

1 has proven ownership of a U.S. savings bond subject to the action, the court shall
2 enter judgment that this state has the ownership interest described under sub. (2)
3 in the U.S. savings bond.

4 (5) Within a reasonable time after a U.S. savings bond escheats to this state
5 under sub. (1) or an action under sub. (3) is concluded, whichever is later, the
6 administrator shall file an application with the U.S. department of the treasury to
7 redeem the U.S. savings bond.

****NOTE: For a sale of other types of abandoned property under s. 177.22 (1), the
property must be sold within 3 years after the Secretary of Revenue receives the property.
Do you want to include a similar requirement with respect to U.S. savings bonds?

****NOTE: What procedures must the secretary follow to redeem a bond? This
provision attempts to require the secretary to make a reasonable effort to redeem a bond,
while accounting for the possibility that the U.S. Department of the Treasury may not
allow the redemption, for example, by refusing to redeem absent bonds. Please review
this language and consider whether it accomplishes this goal.

8 **SECTION 9.** 177.23 (1) of the statutes is amended to read:

9 177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the
10 school fund all funds received under this chapter, including the clear proceeds from
11 the sale of abandoned property under s. 177.22 and amounts received from the
12 redemption of U.S. savings bonds under s. 177.225 (5). Before making the deposit,
13 the administrator shall record the name and last-known address of each person
14 appearing from the holders' reports to be entitled to the property ~~and;~~ the name and
15 last-known address of each insured person or annuitant and beneficiary ~~and;~~ with
16 respect to each policy or contract listed in the report of an insurance company, its
17 number, the name of the company, and the amount due; and, with respect to each U.S.
18 savings bond, the name and last-known address of each person named on the U.S.
19 savings bond and the issue date, face amount, and serial number of the U.S. savings
20 bond. The information recorded by the administrator under this subsection is not

1 available for inspection or copying under s. 19.35 (1) until 12 months after payment
2 or delivery of the property is due under s. 177.17 (4) (a).

3 History: 1983 a. 408; 1987 a. 399; 2001 a. 16; 2005 a. 400; 2013 a. 20.

SECTION 10. 177.23 (2) (am) of the statutes is created to read:

4 177.23 (2) (am) Any costs in connection with an action for declaratory judgment
5 and redemption of a U.S. savings bond under s. 177.225 (3) to (5).

6 History: 1983 a. 408; 1987 a. 399; 2001 a. 16; 2005 a. 400; 2013 a. 20.

SECTION 11. 177.255 of the statutes is created to read:

7 **177.255. Claim to recover abandoned U.S. savings bond. (1)**

8 Notwithstanding s. 177.225, any person who claimed an interest in a U.S. savings
9 bond immediately before the U.S. savings bond escheated to this state under s.
10 177.225 (1) may file a claim under s. 177.24, and another state may file a claim under
11 s. 177.25. Notwithstanding s. 177.24 (3) or 177.25 (2), if the claim is allowed, the
12 administrator shall deliver the U.S. savings bond to the claimant or pay the claimant
13 the amount the administrator received from redeeming the U.S. savings bond under
14 s. 177.225 (5), minus any amounts that were deposited in the general fund to pay
15 administrative expenses under s. 177.23 (2) that are attributable to the U.S. savings
16 bond.

17 (2) A claimant that takes delivery under sub. (1) of a U.S. savings bond that
18 has escheated to this state takes the U.S. savings bond free of all claims of this state.
19 The administrator shall execute all documents necessary to complete the transfer of
20 ownership.

21 **SECTION 12. Nonstatutory provisions.**

22 (1) An unredeemed U.S. savings bond in the possession of the administrator
23 on the effective date of this subsection is presumed abandoned under section 177.135
24 of the statutes, as created by this act, as follows:

1 (a) If the U.S. savings bond matured more than 5 years before the effective date
2 of this paragraph, the U.S. savings bond is presumed abandoned on the date that is
3 5 years and one day after the date of maturity.

4 (b) If the U.S. savings bond matured not more than 5 years before the effective
5 date of this paragraph, the U.S. savings bond will be presumed abandoned on the
6 date that is 5 years and one day after the date of maturity even if the U.S. savings
7 bond would have been presumed abandoned on an earlier date under chapter 177,
8 2013 stats.

9 (c) If the U.S. savings bond is not matured on the effective date of this
10 paragraph, the U.S. savings bond will be presumed abandoned on the date that is 5
11 years and one day after the date of maturity even if the U.S. savings bond would have
12 been presumed abandoned on an earlier date under chapter 177, 2013 stats.

13 (2) For the purposes of determining when a U.S. savings bond escheats to this
14 state under section 177.225 (1) of the statutes, as created by this act, a notice
15 published by the administrator under section 177.18 of the statutes must include the
16 name and last-known address of each person named on the U.S. savings bond.

****NOTE: Has the Secretary of Revenue already published a notice under s. 177.18
that included the names of persons named on a U.S. savings bond? If yes, we should
consider whether this nonstatutory provision provides sufficient due process before the
bond escheats to this state.

****NOTE: Would you like to include a delayed effective date for this draft?

Pleviak, Krista

From: Krueger, Nick
Sent: Thursday, December 03, 2015 2:20 PM
To: Pleviak, Krista; Kreye, Joseph
Cc: Coenen, Scott; Bemis, Zach; Katsma, Terry
Subject: Savings bonds bill
Attachments: 15-3823_P1.pdf

Hi, Krista and Joe,

Zach Bemis and I have reviewed LRB-3823/P1, the preliminary draft you wrote for us regarding escheat of abandoned U.S. savings bonds. Many thanks for your prompt work! We have some answers to the questions you posed in the notes included in that P1 draft:

- 1) Note on top of pg. 3 regarding the obligation of the holder to deliver a bond to the Secretary of Revenue. We do not want to change the holder's obligation; in other words, we are fine with the holder being allowed, but not required, to deliver the bond to the secretary.
- 2) Note near the bottom of pg. 3 regarding s. 177.18. We understand and agree with what you did. OK as is.
- 3) Note at the far bottom of pg. 3 regarding s. 177.17 (5). Yes, we do want to require a holder to give the notice required to the person named on the bond.
- 4) Note on pg. 4 regarding s. 177.03. We do not want to make different conditions apply.
- 5) Note on pg. 4 regarding due process. We understand and agree with what you did. OK as is.
- 6) Note at the far bottom of pg. 4 regarding automatic vs. court-ordered escheat. We prefer that court action is required; we do not want the bond to automatically become state property. In other words, we do want a judge to sign off on any property transfer from a citizen to the state.
- 7) Note on pg. 5 regarding declaratory judgment. We do want court action to be mandatory. We do want the court action to be an action for declaratory judgment.
- 8) Note on pg. 5 regarding due process. We understand your point—we definitely want the judge to agree that whatever steps taken by the Secretary of Revenue to identify interested parties do indeed constitute "reasonable" efforts. Do you have any suggestions? Do you think it's better for us to specify what steps the Secretary must take, or is it better to leave the steps unspecified? (See below my bullet point #12.)
- 9) Note at the far bottom of pg. 5 regarding 180 days. We understand and agree with what you did. OK as is. Do not include a 180-day requirement.
- 10) Note on pg. 6 regarding "sold within 3 years." Yes, we do want a similar requirement. We assume that means changing line 6 to read: "**(5)** Within a reasonable time 3 years after a U.S. savings bond escheats..."
- 11) Note on pg. 6 regarding secretary's procedures for redeeming a bond. We understand and agree with what you did. OK as is.
- 12) Note on pg. 8 regarding s. 177.18. I'll ask the same question of you as I asked above in my bullet point #8—do you have any suggestions? Our gut feeling is that, for the state to even have the opportunity to presume a bond abandoned and move to seize it, many efforts have already been made to contact the rightful owner—and even after escheat, the rightful owner will still retain the right to seek the bond's return by the secretary. Thus our instinct is that there is sufficient due process... but perhaps this entire issue of due process is something we ought to discuss with you again in greater detail.
- 13) Note at the far bottom of pg. 8 regarding delayed effective date. No, we prefer an immediate effective date.

Hopefully this provides you with enough guidance to start working up a new P2 preliminary draft. I'm going to be out of the office tomorrow (Friday 12/4) but will be back for regular hours beginning on Monday; I'll plan to follow up by phone with one or both of you early next week to work through whatever questions remain.

Thanks again for your work on this!

Nick Krueger

Legislative Assistant

Office of Representative Terry Katsma

Wisconsin State Assembly

Room 18 North, State Capitol

P.O. Box 8952

Madison, WI 53708

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State of Wisconsin
2015 - 2016 LEGISLATURE

P2

LRB-3823/P1
KRP&JK:klm

IN: 12/08/15

DUE: 12/10/15 (Thurs.)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

1 AN ACT *to amend* 177.12 (1), 177.13, 177.16, 177.22 (1) and 177.23 (1); and *to*
2 *create* 177.01 (14m), 177.135, 177.17 (2) (cm), 177.225, 177.23 (2) (am) and
3 177.255 of the statutes; **relating to:** escheat of abandoned U.S. savings bonds.

Regenerate catalog

matures

remains

Analysis by the Legislative Reference Bureau

This bill provides that a U.S. savings bond that has remained unredeemed for five years after it matures is presumed abandoned and subject to the custody of this state under this state's version of the Uniform Unclaimed Property Act. The bill also provides that an unredeemed bond that is presumed abandoned shall escheat to, and become the property of, this state one year after the bond is presumed abandoned or one year after the Secretary of Revenue publishes notice of the name of the person appearing to be the owner of the bond, whichever is later.

Under the bill, after a bond escheats, the secretary may commence an action for a declaratory judgment that the state owns the bond. Within a reasonable time after a bond escheats or a declaratory judgment action is concluded, the secretary shall redeem the bond and deposit the proceeds in the school fund.

At any time before a bond escheats, the rightful owner may file a claim with the secretary for the bond's return. After a bond escheats, the previous owner may file a claim with the secretary for return of the bond or payment of the amount for which the bond was redeemed, less administrative costs incurred by the secretary.

INSERT A-1

The order is entered

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 177.01 (14m) of the statutes is created to read:

2 177.01 (14m) “U.S. savings bond” means a savings bond issued by the U.S.
3 department of the treasury, whether in paper, electronic, or paperless form, and
4 includes all proceeds of the savings bond.

5 **SECTION 2.** 177.12 (1) of the statutes is amended to read:

6 177.12 (1) ~~Intangible~~ Except as provided in s. 177.135, intangible property and
7 any income or increment derived from it held in a fiduciary capacity for the benefit
8 of another person is presumed abandoned unless the owner, within 5 years after it
9 has become payable or distributable, has increased or decreased the principal,
10 accepted payment of principal or income, communicated concerning the property or
11 otherwise indicated an interest as evidenced by a memorandum or other record on
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13 **SECTION 3.** 177.13 of the statutes is amended to read:

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16 property held for the owner by a court, state, or other government, governmental
17 subdivision, or agency, public corporation, or public authority that remains
18 unclaimed by the owner for more than one year after it became payable or
19 distributable is presumed abandoned.

20 **SECTION 4.** 177.135 of the statutes is created to read:

1 **177.135 U.S. savings bonds.** Notwithstanding s. 177.02 (1), a U.S. savings
2 bond that remains unredeemed by the owner for more than 5 years after the date of
3 maturity is presumed abandoned.

****NOTE: The interplay between ss. 177.135, 177.16, and 177.17 (1) and (4) (a) 2. could result in a situation where the contents of a safe deposit box are presumed abandoned and the holder must deliver the contents to the Secretary of Revenue, but the safe deposit box contains a U.S. savings bond that is not presumed abandoned and that the holder is not required to deliver to the secretary. Under s. 177.27 (2), the holder would be allowed, but would not be required, to deliver the bond to the secretary. Do you want to change the holder's obligation in this situation? Do you want a bond to be deemed abandoned in this situation?

4 **SECTION 5.** 177.16 of the statutes is amended to read:

5 **177.16 Contents of safe deposit box or other safekeeping repository.**

6 All Except as provided in s. 177.135, all tangible and intangible property held in a
7 safe deposit box or any other safekeeping repository in this state in the ordinary
8 course of the holder's business and proceeds resulting from the sale of the property
9 permitted by other law, which remain unclaimed by the owner for more than 5 years
10 after the lease or rental period on the box or other repository has expired, are
11 presumed abandoned.

12 **SECTION 6.** 177.17 (2) (cm) of the statutes is created to read:

13 **177.17 (2) (cm)** In the case of a U.S. savings bond, the name and last-known
14 address of each person named on the U.S. savings bond and the issue date, face
15 amount, and serial number of the U.S. savings bond.

INSERT
3-15

****NOTE: Under s. 177.18, the Secretary of Revenue must publish notice of the names of persons appearing to be owners of abandoned property, including the names identified in a report filed by a holder under s. 177.17 (1) and (2). I added this provision to ensure that the secretary receives notice of each person named on a U.S. savings bond, which, in turn, obligates the secretary to include these names in the secretary's publication under s. 177.18. Please let me know if this is not consistent with your intent.

****NOTE: Under s. 177.17 (5), the holder of abandoned property is required to give notice to the "apparent owner" of the property. In the case of a bond found in a safe deposit box, the apparent owner is the person who rented the safe deposit box, even if another person is named on the bond. Do you want to require a holder to give the notice required under s. 177.17 (5) to the person named on the bond?

1 **SECTION 7.** 177.22 (1) of the statutes is amended to read:

2 177.22 (1) Except as provided in subs. (2) and (4) and s. 177.225, the
3 administrator, within 3 years after the receipt of abandoned property, shall sell it to
4 the highest bidder in a manner that, in the judgment of the administrator, affords
5 the most favorable market for the property. The administrator may decline the
6 highest bid and reoffer the property for sale if, in his or her judgment, the bid is
7 insufficient. If the administrator determines that the probable cost of sale exceeds
8 the value of the property, it need not be offered for sale. Any public sale under this
9 section held in a city, village, or town in this state shall be preceded by the publication
10 of one notice, at least 3 weeks in advance of sale, in a newspaper of general circulation
11 in the county in which the property is to be sold.

12 **SECTION 8.** 177.225 of the statutes is created to read:

13 **177.225 Escheat of U.S. savings bonds.** (1) A U.S. savings bond that is
14 subject to the custody of this state as unclaimed property under s. 177.03, including
15 a U.S. savings bond in the possession of the administrator and a U.S. savings bond
16 that has been lost, stolen, or destroyed, shall escheat to and become the property of
17 this state one year after the U.S. savings bond is presumed abandoned under s.
18 177.135 or one year after the administrator publishes the notice required under s.
19 177.18, whichever is later.

****NOTE: Are the conditions under s. 177.03, which determine under what conditions property may be subject to the custody of this state, applicable to U.S. savings bonds, or do you want to make different conditions apply?

****NOTE: Due process may require that notice be given before a bond escheats to this state; therefore, I measured the date of escheatment from the date that notice is given. Is this consistent with your intent?

****NOTE: This draft provides for a bond to escheat and become the property of the state automatically after certain conditions are met. If it is your intent that ownership of a bond will transfer to the state only after the court action under sub. (3) is completed, please let me know.

INSERT
4-13

1 (2) This state takes all legal title and interest, including all rights, powers, and
2 privileges of survivorship of any owner, co-owner, or beneficiary, of a U.S. savings
3 bond that has escheated to this state under sub. (1), and this state takes the U.S.
4 savings bond free of all claims of the owner or previous holder and of all persons
5 claiming through or under them.

6 (3) The administrator may bring an action for a declaratory judgment under
7 s. 806.04 that a U.S. savings bond has escheated to this state under sub. (1) and that
8 this state has the ownership interest described under sub. (2) in the U.S. savings
9 bond. The action may be commenced in the circuit court for Dane County or in any
10 county that would be a proper place of trial under s. 801.50. Service may be made
11 under s. 801.11 (1) (c) by publication of a notice published as a class 3 notice under
12 ch. 985. In determining which newspaper is likely to give notice as required under
13 s. 985.02 (1), the administrator shall consider the conditions under s. 177.03 that
14 made the U.S. savings bond subject to the custody of this state as unclaimed property.
15 The administrator may postpone commencing an action under this subsection until
16 sufficient U.S. savings bonds have escheated to this state to justify the expense of the
17 action.

***NOTE: I made the action for declaratory judgment optional rather than mandatory to account for the possibility that the U.S. Department of the Treasury rules may be changed in the future to not require court action. If you want a court action to be mandatory, please let me know. If it was not your intent that the court action be an action for declaratory judgment, please let me know.

***NOTE: It appears that due process may require the Secretary of Revenue to make reasonable efforts to identify and serve interested parties, which may include the persons named on a U.S. savings bond or, if the persons are deceased, their heirs. Although this draft allows the secretary to provide service by publication, the secretary still must prove to the court that reasonable efforts were made to locate the rightful owners. Service by publication without these reasonable efforts may violate due process.

***NOTE: The proposed language includes a requirement that an action for declaratory judgment be commenced within 180 days after a bond escheats to the state. Given that the secretary can postpone bringing an action until the cost of bringing the action is justified, it is not clear what this 180-day language is intended to accomplish.

Therefore, I did not include the language in this draft. Please give me a call if you want to discuss.

1 (4) In an action under sub. (3), if the court finds that the administrator has
 2 substantially complied with the provisions of this chapter and that no other person
 3 has proven ownership of a U.S. savings bond subject to the action, the court shall
 4 enter judgment that this state has the ownership interest described under sub. (2)
 5 in the U.S. savings bond.

6 (5) Within a reasonable time after a U.S. savings bond escheats to this state
 7 under sub. (1) or an action under sub. (3) is concluded, whichever is later, the
 8 administrator shall file an application with the U.S. department of the treasury to
 9 redeem the U.S. savings bond.

***NOTE: For a sale of other types of abandoned property under s. 177.22 (1), the property must be sold within 3 years after the Secretary of Revenue receives the property. Do you want to include a similar requirement with respect to U.S. savings bonds?

***NOTE: What procedures must the secretary follow to redeem a bond? This provision attempts to require the secretary to make a reasonable effort to redeem a bond, while accounting for the possibility that the U.S. Department of the Treasury may not allow the redemption, for example, by refusing to redeem absent bonds. Please review this language and consider whether it accomplishes this goal.

10 **SECTION 9.** 177.23 (1) of the statutes is amended to read:

11 177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the
 12 school fund all funds received under this chapter, including the clear proceeds from
 13 the sale of abandoned property under s. 177.22 and amounts received from the
 14 redemption of U.S. savings bonds under s. 177.225 ^{(4) ✓} ~~(5)~~. Before making the deposit,
 15 the administrator shall record the name and last-known address of each person
 16 appearing from the holders' reports to be entitled to the property and; the name and
 17 last-known address of each insured person or annuitant and beneficiary and; with
 18 respect to each policy or contract listed in the report of an insurance company, its
 19 number, the name of the company, and the amount due; and, with respect to each U.S.

1 savings bond, the name and last-known address of each person named on the U.S.
2 savings bond and the issue date, face amount, and serial number of the U.S. savings
3 bond. The information recorded by the administrator under this subsection is not
4 available for inspection or copying under s. 19.35 (1) until 12 months after payment
5 or delivery of the property is due under s. 177.17 (4) (a).

6 SECTION 10. 177.23 (2) (am) of the statutes is created to read:

under s. 177.225 (1) ✓

7 177.23 (2) (am) Any costs in connection with an action for declaratory judgment
8 and redemption of a U.S. savings bond under s. 177.225 (3) to (5) ✓

the

(3) to (5)

(4) ✓

9 SECTION 11. 177.255 of the statutes is created to read:

10 177.255 Claim to recover abandoned U.S. savings bond. (1)

11 Notwithstanding s. 177.225, any person who claimed an interest in a U.S. savings
12 bond immediately before the U.S. savings bond escheated to this state under s.
13 177.225 (1) may file a claim under s. 177.24, and another state may file a claim under
14 s. 177.25. Notwithstanding s. 177.24 (3) or 177.25 (2), if the claim is allowed, the
15 administrator shall deliver the U.S. savings bond to the claimant or pay the claimant
16 the amount the administrator received from redeeming the U.S. savings bond under
17 s. 177.225 (5) minus any amounts that were deposited in the general fund to pay
18 administrative expenses under s. 177.23 (2) that are attributable to the U.S. savings
19 bond.

(3) ✓

(4) ✓

20 (2) A claimant who takes delivery under sub. (1) of a U.S. savings bond that
21 has escheated to this state takes the U.S. savings bond free of all claims of this state.

who

is owned by

22 The administrator shall execute all documents necessary to complete the transfer of
23 ownership.

24 SECTION 12. Nonstatutory provisions.

this state became the owner of the U.S. Savings bond pursuant to an order entered

1 (1) An unredeemed U.S. savings bond in the possession of the administrator
2 on the effective date of this subsection is presumed abandoned under section 177.135
3 of the statutes, as created by this act, as follows:

4 (a) If the U.S. savings bond matured more than 5 years before the effective date
5 of this paragraph, the U.S. savings bond is presumed abandoned on the date that is
6 5 years and one day after the date of maturity.

7 (b) If the U.S. savings bond matured not more than 5 years before the effective
8 date of this paragraph, the U.S. savings bond will be presumed abandoned on the
9 date that is 5 years and one day after the date of maturity even if the U.S. savings
10 bond would have been presumed abandoned on an earlier date under chapter 177,
11 2013 stats.

12 (c) If the U.S. savings bond is not matured on the effective date of this
13 paragraph, the U.S. savings bond will be presumed abandoned on the date that is 5
14 years and one day after the date of maturity even if the U.S. savings bond would have
15 been presumed abandoned on an earlier date under chapter 177, 2013 stats.

16 (2) For the purposes of determining when an action may be commenced a U.S. savings bond escheats to this
17 state under section 177.225 (1) of the statutes, as created by this act, a notice
18 published by the administrator under section 177.18 of the statutes must include the
19 name and last-known address of each person named on the U.S. savings bond.

****NOTE: Has the Secretary of Revenue already published a notice under s. 177.18 that included the names of persons named on a U.S. savings bond? If yes, we should consider whether this nonstatutory provision provides sufficient due process before the bond escheats to this state.

****NOTE: Would you like to include a delayed effective date for this draft?

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3823/P2ins
KRP&JK:klm

INSERT A-1

, if all of the following conditions apply, the Secretary of Revenue may commence an action for a determination that the bond is abandoned and for an order transferring ownership of the abandoned bond to this state:

1. The bond has been presumed abandoned for at least one year. ✓
2. The bond is subject to the custody of this state as unclaimed property. ✓
3. At least one year has elapsed since the secretary published notice of the name of the person appearing to be the owner of the bond. ✓

The secretary must redeem the bond within three years after entry of the order transferring ownership of the bond. The proceeds from the redemption are deposited in the school fund. ✓

(END INSERT A-1)

INSERT 3-15

1 **SECTION 1.** 177.17 (5) (intro.), (a) and (b) of the statutes are amended to read:
2 177.17 (5) (intro.) Not more than 120 days before filing the report required by
3 this section, the holder in possession of property presumed abandoned and subject
4 to custody as unclaimed property under this chapter shall send written notice to the
5 apparent owner and, in the case of a U.S. savings bond, to the person named on the
6 U.S. savings bond at his or her last-known address informing him or her that the
7 holder is in possession of property subject to this chapter if all of the following ~~exist~~
8 factors apply:

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to 2890, 2897; 2003 a. 33; 2005 a. 400; 2007 a. 157.

9 (a) The holder has in its records an address for the apparent owner ~~which or~~
10 person named on the U.S. savings bond that the holder's records do not disclose to
11 be inaccurate.

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to 2890, 2897; 2003 a. 33; 2005 a. 400; 2007 a. 157.

1 (b) The claim of the apparent owner or person named on the U.S. savings bond
2 is not barred by the statute of limitations.

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to 2890, 2897; 2003 a. 33; 2005 a. 400; 2007 a. 157.

(END INSERT 3-15)

INSERT 4-13

3 (1) If all of the following conditions apply, the administrator may bring an
4 action for a judgment that a U.S. savings bond, including a U.S. savings bond in the
5 possession of the administrator or a U.S. savings bond that has been lost, stolen, or
6 destroyed, is abandoned and for an order transferring ownership of the abandoned
7 U.S. savings bond to this state:

8 (a) The U.S. savings bond has been presumed abandoned under s. 177.135[✓] for
9 at least one year.

10 (b) The U.S. savings bond is subject to the custody of this state as unclaimed
11 property under s. 177.03[✓].

12 (c) At least one year has elapsed since the administrator published the notice
13 required under s. 177.18[✓].

14 (2) An action under sub. (1)[✓] may be commenced in the circuit court for Dane
15 County or in any county that would be a proper place of trial under s. 801.50[✓]. Service
16 may be made under s. 801.11[✓] (1) (c) by publication of a notice published as a class 3[✓]
17 notice under ch. 985. In determining which newspaper is likely to give notice as
18 required under s. 985.02[✓] (1), the administrator shall consider the conditions under
19 s. 177.03[✓] that made the U.S. savings bond subject to the custody of this state as
20 unclaimed property. The administrator may postpone commencing an action under
21 this subsection until sufficient U.S. savings bonds meet the conditions under sub. (1)[✓]
22 to justify the expense of the action.

1 (3) In an action under sub. (1), if the court finds that the administrator has
2 substantially complied with the provisions of this chapter and that no other person
3 has proven ownership of the U.S. savings bond, the court shall enter judgment that
4 this state has all legal title and interest, including all rights, powers, and privileges
5 of survivorship of any owner, co-owner, or beneficiary, of the U.S. savings bond and
6 that this state owns the U.S. savings bond free of all claims of the owner or previous
7 holder and of all persons claiming through or under them.

8 (4) Within 3 years after the entry of a judgment under sub. (3), the
9 administrator shall file an application with the U.S. department of the treasury to
10 redeem the U.S. savings bond.

(END INSERT 4-13)

Possible changes to LRB-3823/P2

Page 5, line 11, after "...unclaimed property." Suggested addition:

~~The notice shall list all persons to be served and shall notify those persons that:~~

- ~~a. The person has been sued in a named court;~~
- ~~b. The person must answer the petition or other pleading or otherwise respond, on or before a specified date not less than forty (40) days after the date the notice is first published; and~~
- ~~c. If the person does not answer or otherwise respond, the petition or other pleading shall be taken as true and judgment, the nature of which shall be stated, will be rendered accordingly.~~

(3) Before service by publication as required by paragraph 2 of this section can be made, the administrator shall file with the court an affidavit or a declaration stating all of the following facts that apply:

- (a) The residences of all named persons sought to be served, if known, and the names of all persons whose residences are unknown after reasonable effort to ascertain them and the specific efforts made to ascertain their residences.
- (b) The affiant or declarant has made a reasonable but unsuccessful effort to ascertain the names and residences of any person or persons sought to be served as unknown parties and the specific efforts made to ascertain the names and residences.
- (c) The affiant or declarant seeking service by publication is unable to obtain service of summons on the person or persons in this state.
- ~~(d) The affiant or declarant seeking service by publication sent notice by certified mail to the last known address in Wisconsin of the person or persons of their ability to make a claim.~~

Page 7, Section 13, several locations. Would it be meaningful to change every instance of the word *maturity* to read *final maturity*?



State of Wisconsin
2015 - 2016 LEGISLATURE

IN: 12/18/15

DUE: 12/21/15 (Mon.)

LRB-3823/P2
KRP&JK:klm

P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

Regenerate catalog

1 AN ACT to amend 177.12 (1), 177.13, 177.16, 177.17 (5) (intro.), (a) and (b), 177.22
2 (1) and 177.23 (1); and to create 177.01 (14m), 177.135, 177.17 (2) (cm),
3 177.225, 177.23 (2) (am) and 177.255 of the statutes; relating to: escheat of
4 abandoned U.S. savings bonds.

final maturity

Analysis by the Legislative Reference Bureau

This bill provides that a U.S. savings bond that remains unredeemed for five years after it matures is presumed abandoned and subject to the custody of this state under this state's version of the Uniform Unclaimed Property Act. The bill also provides that, if all of the following conditions apply, the Secretary of Revenue may commence an action for a determination that the bond is abandoned and for an order transferring ownership of the abandoned bond to this state:

1. The bond has been presumed abandoned for at least one year.
2. The bond is subject to the custody of this state as unclaimed property.
3. At least one year has elapsed since the secretary published notice of the name of the person appearing to be the owner of the bond.

The secretary must redeem the bond within three years after entry of the order transferring ownership of the bond. The proceeds from the redemption are deposited in the school fund.

At any time before the order is entered, the rightful owner may file a claim with the secretary for the bond's return. After the order is entered, the previous owner may file a claim with the secretary for return of the bond or payment of the amount for which the bond was redeemed, less administrative costs incurred by the secretary.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 177.01 (14m) of the statutes is created to read:

2 177.01 (14m) “U.S. savings bond” means a savings bond issued by the U.S.
3 department of the treasury, whether in paper, electronic, or paperless form, and
4 includes all proceeds of the savings bond.

5 **SECTION 2.** 177.12 (1) of the statutes is amended to read:

6 177.12 (1) ~~Intangible~~ Except as provided in s. 177.135, intangible property and
7 any income or increment derived from it held in a fiduciary capacity for the benefit
8 of another person is presumed abandoned unless the owner, within 5 years after it
9 has become payable or distributable, has increased or decreased the principal,
10 accepted payment of principal or income, communicated concerning the property or
11 otherwise indicated an interest as evidenced by a memorandum or other record on
12 file prepared by the fiduciary.

13 **SECTION 3.** 177.13 of the statutes is amended to read:

14 **177.13 Property held by courts and public agencies.** Except as provided
15 in ss. 40.08 (8), 177.135, 800.095 (8), 852.01 (3), 863.37 (2), and 863.39, intangible
16 property held for the owner by a court, state, or other government, governmental
17 subdivision, or agency, public corporation, or public authority that remains
18 unclaimed by the owner for more than one year after it became payable or
19 distributable is presumed abandoned.

20 **SECTION 4.** 177.135 of the statutes is created to read:

1 **177.135 U.S. savings bonds.** Notwithstanding s. 177.02 (1), a U.S. savings
 2 bond that remains unredeemed by the owner for more than 5 years after the date of
 3 maturity is presumed abandoned.

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final

4 **SECTION 5.** 177.16 of the statutes is amended to read:

5 **177.16 Contents of safe deposit box or other safekeeping repository.**

6 All Except as provided in s. 177.135, all tangible and intangible property held in a
 7 safe deposit box or any other safekeeping repository in this state in the ordinary
 8 course of the holder’s business and proceeds resulting from the sale of the property
 9 permitted by other law, which remain unclaimed by the owner for more than 5 years
 10 after the lease or rental period on the box or other repository has expired, are
 11 presumed abandoned.

12 **SECTION 6.** 177.17 (2) (cm) of the statutes is created to read:

13 177.17 (2) (cm) In the case of a U.S. savings bond, the name and last-known
 14 address of each owner of person named on the U.S. savings bond and the issue date, face
 15 amount, and serial number of the U.S. savings bond.

16 **SECTION 7.** 177.17 (5) (intro.), (a) and (b) of the statutes are amended to read:

17 177.17 (5) (intro.) Not more than 120 days before filing the report required by
 18 this section, the holder in possession of property presumed abandoned and subject
 19 to custody as unclaimed property under this chapter shall send written notice to the
 20 apparent owner and, in the case of a U.S. savings bond, to each owner of the person named on the
 21 U.S. savings bond at his or her last-known address informing him or her that the
 22 holder is in possession of property subject to this chapter if all of the following exist
 23 factors apply:

1 (a) The holder has in its records an address for the apparent owner which, or
 2 owner of person named on the U.S. savings bond, that the holder's records do not disclose to
 3 be inaccurate.

4 (b) The claim of the apparent owner, or owner of person named on the U.S. savings bond,
 5 is not barred by the statute of limitations.

SECTION 8. 177.22 (1) of the statutes is amended to read:

177.22 (1) Except as provided in subs. (2) and (4) and s. 177.225, the
 administrator, within 3 years after the receipt of abandoned property, shall sell it to
 the highest bidder in a manner that, in the judgment of the administrator, affords
 the most favorable market for the property. The administrator may decline the
 highest bid and reoffer the property for sale if, in his or her judgment, the bid is
 insufficient. If the administrator determines that the probable cost of sale exceeds
 the value of the property, it need not be offered for sale. Any public sale under this
 section held in a city, village, or town in this state shall be preceded by the publication
 of one notice, at least 3 weeks in advance of sale, in a newspaper of general circulation
 in the county in which the property is to be sold.

SECTION 9. 177.225 of the statutes is created to read:

177.225 Escheat of U.S. savings bonds. (1) If all of the following conditions
 apply, the administrator may bring an action for a judgment that a U.S. savings
 bond, including a U.S. savings bond in the possession of the administrator or a U.S.
 savings bond that has been lost, stolen, or destroyed, is abandoned and for an order
 transferring ownership of the abandoned U.S. savings bond to this state:

(a) The U.S. savings bond has been presumed abandoned under s. 177.135 for
 at least one year.

1 (b) The U.S. savings bond is subject to the custody of this state as unclaimed
2 property under s. 177.03.

3 (c) At least one year has elapsed since the administrator published the notice
4 required under s. 177.18.

Subject to sub. (3),
service

5 (2) An action under sub. (1) may be commenced in the circuit court for Dane
6 County or in any county that would be a proper place of trial under s. 801.50. ~~(Service)~~
7 may be made under s. 801.11 (1) (c) by publication of a notice published as a class 3
8 notice under ch. 985. In determining which newspaper is likely to give notice as
9 required under s. 985.02 (1), the administrator shall consider the conditions under
10 s. 177.03 that made the U.S. savings bond subject to the custody of this state as
11 unclaimed property. The administrator may postpone commencing an action under
12 this subsection until sufficient U.S. savings bonds meet the conditions under sub. (1)
13 to justify the expense of the action.

INSERT
5-14

(4) (3)

14 (3) In an action under sub. (1), if the court finds that the administrator has
15 substantially complied with the provisions of this chapter and that no other person
16 has proven ownership of the U.S. savings bond, the court shall enter judgment that
17 this state has all legal title and interest, including all rights, powers, and privileges
18 of survivorship of any owner, co-owner, or beneficiary, of the U.S. savings bond and
19 that this state owns the U.S. savings bond free of all claims of the owner or previous
20 holder and of all persons claiming through or under them.

(4) ✓

21 (4) Within 3 years after the entry of a judgment under sub. (3), the
22 administrator shall file an application with the U.S. department of the treasury to
23 redeem the U.S. savings bond.

24 SECTION 10. 177.23 (1) of the statutes is amended to read:

1 177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the
 2 school fund all funds received under this chapter, including the clear proceeds from
 3 the sale of abandoned property under s. 177.22, and amounts received from the
 4 redemption of U.S. savings bonds under s. 177.225 (5) (4). Before making the deposit,
 5 the administrator shall record the name and last-known address of each person
 6 appearing from the holders' reports to be entitled to the property and; the name and
 7 last-known address of each insured person or annuitant and beneficiary and; with
 8 respect to each policy or contract listed in the report of an insurance company, its
 9 number, the name of the company, and the amount due; and, with respect to each U.S.
 10 savings bond, the name and last-known address of each (owner of) person named on the U.S.
 11 savings bond and the issue date, face amount, and serial number of the U.S. savings
 12 bond. The information recorded by the administrator under this subsection is not
 13 available for inspection or copying under s. 19.35 (1) until 12 months after payment
 14 or delivery of the property is due under s. 177.17 (4) (a).

15 **SECTION 11.** 177.23 (2) (am) of the statutes is created to read:

16 177.23 (2) (am) Any costs in connection with an action under s. 177.225 (1) and
 17 the redemption of a U.S. savings bond under s. 177.225 (4), (5) ✓

18 **SECTION 12.** 177.255 of the statutes is created to read:

19 **177.255 Claim to recover abandoned U.S. savings bond. (1)**

20 Notwithstanding s. 177.225, any person who claimed an interest in a U.S. savings
 21 bond immediately before this state became the owner of the U.S. savings bond
 22 pursuant to a judgment (4) an order (3) entered under s. 177.225 (3) may file a claim under s. 177.24,
 23 and another state may file a claim under s. 177.25. Notwithstanding s. 177.24 (3)
 24 or 177.25 (2), if the claim is allowed, the administrator shall deliver the U.S. savings
 25 bond to the claimant or pay the claimant the amount the administrator received from

(5) ✓
(4)

1 redeeming the U.S. savings bond under s. 177.225 (4), minus any amounts that were
2 deposited in the general fund to pay administrative expenses under s. 177.23 (2) that
3 are attributable to the U.S. savings bond.

4 (2) A claimant who takes delivery under sub. (1) of a U.S. savings bond that
5 is owned by this state takes the U.S. savings bond free of all claims of this state. The
6 administrator shall execute all documents necessary to complete the transfer of
7 ownership.

8 **SECTION 13. Nonstatutory provisions.**

9 (1) An unredeemed U.S. savings bond in the possession of the administrator
10 on the effective date of this subsection is presumed abandoned under section 177.135
11 of the statutes, as created by this act, as follows:

INSERT
7-12

12 (a) If the U.S. savings bond ~~matured~~ more than 5 years before the effective date
13 of this paragraph, the U.S. savings bond is presumed abandoned on the date that is
14 5 years and one day after the date of ^{final} maturity.

INSERT
7-15

15 (b) If the U.S. savings bond ~~matured~~ not more than 5 years before the effective
16 date of this paragraph, the U.S. savings bond will be presumed abandoned on the
17 date that is 5 years and one day after the date of ^{final} maturity even if the U.S. savings
18 bond would have been presumed abandoned on an earlier date under chapter 177,
19 2013 stats.

INSERT
7-20

20 (c) If the U.S. savings bond ^{has} ~~is~~ not ~~matured~~ on the effective date of this
21 paragraph, the U.S. savings bond will be presumed abandoned on the date that is 5
22 years and one day after the date of ^{final} maturity even if the U.S. savings bond would have
23 been presumed abandoned on an earlier date under chapter 177, 2013 stats.

24 (2) For the purposes of determining when an action may be commenced under
25 section 177.225 (1) of the statutes, as created by this act, a notice published by the

1 administrator under section 177.18 of the statutes must include the name and
2 last-known address of each person named on the U.S. savings bond.

3

(END)

appearing to be an owner of

INSERT 3-3

1 In this section, "final maturity" means the date a U.S. savings bond stops earning
2 interest upon reaching its final extended maturity date.

(END INSERT 3-3)

INSERT 5-14

3 (3) If service is made under sub. (2) by publication of a notice, the administrator
4 shall, before publication of the notice, file with the court an affidavit setting forth the
5 administrator's efforts to locate the owners of each U.S. savings bond subject to the
6 action, and, upon filing of the affidavit, there shall be a presumption that the owners
7 cannot with reasonable diligence be served under s. 801.11 (a) or (b). The affidavit
8 shall include all of the following information with respect to the U.S. savings bond:

9 (a) A description of the efforts made by the administrator to ascertain the name
10 and last-known address of each person appearing to be an owner of the U.S. savings
11 bond.

12 (b) The name and last-known address of each person identified by the
13 administrator as appearing to be an owner of the U.S. savings bond.

14 (c) The interest of each unknown person identified by the administrator as
15 appearing to be an owner of the U.S. savings bond.

16 (d) A description of the efforts made by the administrator to notify each owner
17 of the U.S. savings bond that the owner may be entitled to claim abandoned property.

18 (e) A statement that, based on prior efforts of the administrator to locate or
19 contact the persons appearing to be owners of the U.S. saving bond, the

1 administrator believes that the administrator cannot, with reasonable diligence,
2 serve the owners with notice of the action by personal or substituted service.

(END INSERT 5-14)

INSERT 7-12; 7-15; 7-20

3 reached final maturity, as defined in section 177.135 of the statutes, as created by
4 this act,

(END INSERT 7-12; 7-15; 7-20)

Pleviak, Krista

From: Krueger, Nick
Sent: Thursday, January 07, 2016 12:03 PM
To: Pleviak, Krista
Cc: Coenen, Scott; Bemis, Zach
Subject: LRB-3823 introducible draft

Hi Krista,

Busy day today—I need another one! Please send me an introducible /1 version of LRB-3823/P3, the savings bonds escheat bill.

Senator Marklein is helping us out on this one; his staffer Scott Coenen is copied on this email. You have our permission to draft a Senate companion bill for him.

Thanks again for all your help!

Nick Krueger

Legislative Assistant

Office of Representative Terry Katsma

Wisconsin State Assembly

Room 18 North, State Capitol

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Madison, WI 53708

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State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3823/P3
KRP&JK:klm&kjf

TODAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No CHANGES

RMR

1 AN ACT *to amend* 177.12 (1), 177.13, 177.16, 177.17 (5) (intro.), (a) and (b), 177.22
2 (1) and 177.23 (1); and *to create* 177.01 (14m), 177.135, 177.17 (2) (cm),
3 177.225, 177.23 (2) (am) and 177.255 of the statutes; **relating to:** escheat of
4 abandoned U.S. savings bonds.

Analysis by the Legislative Reference Bureau

This bill provides that a U.S. savings bond that remains unredeemed for five years after final maturity is presumed abandoned and subject to the custody of this state under this state's version of the Uniform Unclaimed Property Act. The bill also provides that, if all of the following conditions apply, the Secretary of Revenue may commence an action for a determination that the bond is abandoned and for an order transferring ownership of the abandoned bond to this state:

1. The bond has been presumed abandoned for at least one year.
2. The bond is subject to the custody of this state as unclaimed property.
3. At least one year has elapsed since the secretary published notice of the name of the person appearing to be the owner of the bond.

The secretary must redeem the bond within three years after entry of the order transferring ownership of the bond. The proceeds from the redemption are deposited in the school fund.

At any time before the order is entered, the rightful owner may file a claim with the secretary for the bond's return. After the order is entered, the previous owner may file a claim with the secretary for return of the bond or payment of the amount for which the bond was redeemed, less administrative costs incurred by the secretary.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 177.01 (14m) of the statutes is created to read:

2 177.01 (14m) “U.S. savings bond” means a savings bond issued by the U.S.
3 department of the treasury, whether in paper, electronic, or paperless form, and
4 includes all proceeds of the savings bond.

5 **SECTION 2.** 177.12 (1) of the statutes is amended to read:

6 177.12 (1) ~~Intangible~~ Except as provided in s. 177.135, intangible property and
7 any income or increment derived from it held in a fiduciary capacity for the benefit
8 of another person is presumed abandoned unless the owner, within 5 years after it
9 has become payable or distributable, has increased or decreased the principal,
10 accepted payment of principal or income, communicated concerning the property or
11 otherwise indicated an interest as evidenced by a memorandum or other record on
12 file prepared by the fiduciary.

13 **SECTION 3.** 177.13 of the statutes is amended to read:

14 **177.13 Property held by courts and public agencies.** Except as provided
15 in ss. 40.08 (8), 177.135, 800.095 (8), 852.01 (3), 863.37 (2), and 863.39, intangible
16 property held for the owner by a court, state, or other government, governmental
17 subdivision, or agency, public corporation, or public authority that remains
18 unclaimed by the owner for more than one year after it became payable or
19 distributable is presumed abandoned.

20 **SECTION 4.** 177.135 of the statutes is created to read:

1 **177.135 U.S. savings bonds.** Notwithstanding s. 177.02 (1), a U.S. savings
2 bond that remains unredeemed by the owner for more than 5 years after the date of
3 final maturity is presumed abandoned. In this section, “final maturity” means the
4 date a U.S. savings bond stops earning interest upon reaching its final extended
5 maturity date.

6 **SECTION 5.** 177.16 of the statutes is amended to read:

7 **177.16 Contents of safe deposit box or other safekeeping repository.**

8 ~~All~~ Except as provided in s. 177.135, all tangible and intangible property held in a
9 safe deposit box or any other safekeeping repository in this state in the ordinary
10 course of the holder’s business and proceeds resulting from the sale of the property
11 permitted by other law, which remain unclaimed by the owner for more than 5 years
12 after the lease or rental period on the box or other repository has expired, are
13 presumed abandoned.

14 **SECTION 6.** 177.17 (2) (cm) of the statutes is created to read:

15 **177.17 (2) (cm)** In the case of a U.S. savings bond, the name and last-known
16 address of each owner of the U.S. savings bond and the issue date, face amount, and
17 serial number of the U.S. savings bond.

18 **SECTION 7.** 177.17 (5) (intro.), (a) and (b) of the statutes are amended to read:

19 **177.17 (5) (intro.)** Not more than 120 days before filing the report required by
20 this section, the holder in possession of property presumed abandoned and subject
21 to custody as unclaimed property under this chapter shall send written notice to the
22 apparent owner and, in the case of a U.S. savings bond, to each owner of the U.S.
23 savings bond at his or her last-known address informing him or her that the holder
24 is in possession of property subject to this chapter if all of the following ~~exist~~ factors
25 apply:

1 (a) The holder has in its records an address for the apparent owner which, or
2 owner of the U.S. savings bond, that the holder's records do not disclose to be
3 inaccurate.

4 (b) The claim of the apparent owner, or owner of the U.S. savings bond, is not
5 barred by the statute of limitations.

6 **SECTION 8.** 177.22 (1) of the statutes is amended to read:

7 177.22 (1) Except as provided in subs. (2) and (4) and s. 177.225, the
8 administrator, within 3 years after the receipt of abandoned property, shall sell it to
9 the highest bidder in a manner that, in the judgment of the administrator, affords
10 the most favorable market for the property. The administrator may decline the
11 highest bid and reoffer the property for sale if, in his or her judgment, the bid is
12 insufficient. If the administrator determines that the probable cost of sale exceeds
13 the value of the property, it need not be offered for sale. Any public sale under this
14 section held in a city, village, or town in this state shall be preceded by the publication
15 of one notice, at least 3 weeks in advance of sale, in a newspaper of general circulation
16 in the county in which the property is to be sold.

17 **SECTION 9.** 177.225 of the statutes is created to read:

18 **177.225 Escheat of U.S. savings bonds.** (1) If all of the following conditions
19 apply, the administrator may bring an action for a judgment that a U.S. savings
20 bond, including a U.S. savings bond in the possession of the administrator or a U.S.
21 savings bond that has been lost, stolen, or destroyed, is abandoned and for an order
22 transferring ownership of the abandoned U.S. savings bond to this state:

23 (a) The U.S. savings bond has been presumed abandoned under s. 177.135 for
24 at least one year.

1 (b) The U.S. savings bond is subject to the custody of this state as unclaimed
2 property under s. 177.03.

3 (c) At least one year has elapsed since the administrator published the notice
4 required under s. 177.18.

5 (2) An action under sub. (1) may be commenced in the circuit court for Dane
6 County or in any county that would be a proper place of trial under s. 801.50. Subject
7 to sub. (3), service may be made under s. 801.11 (1) (c) by publication of a notice
8 published as a class 3 notice under ch. 985. In determining which newspaper is likely
9 to give notice as required under s. 985.02 (1), the administrator shall consider the
10 conditions under s. 177.03 that made the U.S. savings bond subject to the custody of
11 this state as unclaimed property. The administrator may postpone commencing an
12 action under this subsection until sufficient U.S. savings bonds meet the conditions
13 under sub. (1) to justify the expense of the action.

14 (3) If service is made under sub. (2) by publication of a notice, the administrator
15 shall, before publication of the notice, file with the court an affidavit setting forth the
16 administrator's efforts to locate the owners of each U.S. savings bond subject to the
17 action, and, upon filing of the affidavit, there shall be a presumption that the owners
18 cannot with reasonable diligence be served under s. 801.11 (1) (a) or (b). The affidavit
19 shall include all of the following information with respect to the U.S. savings bond:

20 (a) A description of the efforts made by the administrator to ascertain the name
21 and last-known address of each person appearing to be an owner of the U.S. savings
22 bond.

23 (b) The name and last-known address of each person identified by the
24 administrator as appearing to be an owner of the U.S. savings bond.

SECTION 9

1 (c) The interest of each unknown person identified by the administrator as
2 appearing to be an owner of the U.S. savings bond.

3 (d) A description of the efforts made by the administrator to notify each owner
4 of the U.S. savings bond that the owner may be entitled to claim abandoned property.

5 (e) A statement that, based on prior efforts of the administrator to locate or
6 contact the persons appearing to be owners of the U.S. saving bond, the
7 administrator believes that the administrator cannot, with reasonable diligence,
8 serve the owners with notice of the action by personal or substituted service.

9 (4) In an action under sub. (1), if the court finds that the administrator has
10 substantially complied with the provisions of this chapter and that no other person
11 has proven ownership of the U.S. savings bond, the court shall enter judgment that
12 this state has all legal title and interest, including all rights, powers, and privileges
13 of survivorship of any owner, co-owner, or beneficiary, of the U.S. savings bond and
14 that this state owns the U.S. savings bond free of all claims of the owner or previous
15 holder and of all persons claiming through or under them.

16 (5) Within 3 years after the entry of a judgment under sub. (4), the
17 administrator shall file an application with the U.S. department of the treasury to
18 redeem the U.S. savings bond.

19 **SECTION 10.** 177.23 (1) of the statutes is amended to read:

20 177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the
21 school fund all funds received under this chapter, including the clear proceeds from
22 the sale of abandoned property under s. 177.22 and amounts received from the
23 redemption of U.S. savings bonds under s. 177.225 (5). Before making the deposit,
24 the administrator shall record the name and last-known address of each person
25 appearing from the holders' reports to be entitled to the property and; the name and

1 last-known address of each insured person or annuitant and beneficiary ~~and~~; with
2 respect to each policy or contract listed in the report of an insurance company, its
3 number, the name of the company, and the amount due; and, with respect to each U.S.
4 savings bond, the name and last-known address of each owner of the U.S. savings
5 bond and the issue date, face amount, and serial number of the U.S. savings bond.
6 The information recorded by the administrator under this subsection is not available
7 for inspection or copying under s. 19.35 (1) until 12 months after payment or delivery
8 of the property is due under s. 177.17 (4) (a).

9 **SECTION 11.** 177.23 (2) (am) of the statutes is created to read:

10 177.23 (2) (am) Any costs in connection with an action under s. 177.225 (1) and
11 the redemption of a U.S. savings bond under s. 177.225 (5).

12 **SECTION 12.** 177.255 of the statutes is created to read:

13 **177.255 Claim to recover abandoned U.S. savings bond. (1)**

14 Notwithstanding s. 177.225, any person who claimed an interest in a U.S. savings
15 bond immediately before this state became the owner of the U.S. savings bond
16 pursuant to a judgment entered under s. 177.225 (4) may file a claim under s. 177.24,
17 and another state may file a claim under s. 177.25. Notwithstanding s. 177.24 (3)
18 or 177.25 (2), if the claim is allowed, the administrator shall deliver the U.S. savings
19 bond to the claimant or pay the claimant the amount the administrator received from
20 redeeming the U.S. savings bond under s. 177.225 (5), minus any amounts that were
21 deposited in the general fund to pay administrative expenses under s. 177.23 (2) that
22 are attributable to the U.S. savings bond.

23 (2) A claimant who takes delivery under sub. (1) of a U.S. savings bond that
24 is owned by this state takes the U.S. savings bond free of all claims of this state. The

1 administrator shall execute all documents necessary to complete the transfer of
2 ownership.

3 **SECTION 13. Nonstatutory provisions.**

4 (1) An unredeemed U.S. savings bond in the possession of the administrator
5 on the effective date of this subsection is presumed abandoned under section 177.135
6 of the statutes, as created by this act, as follows:

7 (a) If the U.S. savings bond reached final maturity, as defined in section
8 177.135 of the statutes, as created by this act, more than 5 years before the effective
9 date of this paragraph, the U.S. savings bond is presumed abandoned on the date
10 that is 5 years and one day after the date of final maturity.

11 (b) If the U.S. savings bond reached final maturity, as defined in section
12 177.135 of the statutes, as created by this act, not more than 5 years before the
13 effective date of this paragraph, the U.S. savings bond will be presumed abandoned
14 on the date that is 5 years and one day after the date of final maturity even if the U.S.
15 savings bond would have been presumed abandoned on an earlier date under chapter
16 177, 2013 stats.

17 (c) If the U.S. savings bond has not reached final maturity, as defined in section
18 177.135 of the statutes, as created by this act, on the effective date of this paragraph,
19 the U.S. savings bond will be presumed abandoned on the date that is 5 years and
20 one day after the date of final maturity even if the U.S. savings bond would have been
21 presumed abandoned on an earlier date under chapter 177, 2013 stats.

22 (2) For the purposes of determining when an action may be commenced under
23 section 177.225 (1) of the statutes, as created by this act, a notice published by the
24 administrator under section 177.18 of the statutes must include the name and

1 last-known address of each person appearing to be an owner of the U.S. savings
2 bond.

3 (END)

Basford, Sarah

From: Krueger, Nick
Sent: Thursday, January 07, 2016 2:40 PM
To: LRB.Legal
Subject: Draft Review: LRB -3823/1

Please Jacket LRB -3823/1 for the ASSEMBLY.

Thanks!

Nick Krueger

Legislative Assistant

Office of Representative Terry Katsma

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