

[First Reprint]

ASSEMBLY, No. 3250

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED SEPTEMBER 20, 2010

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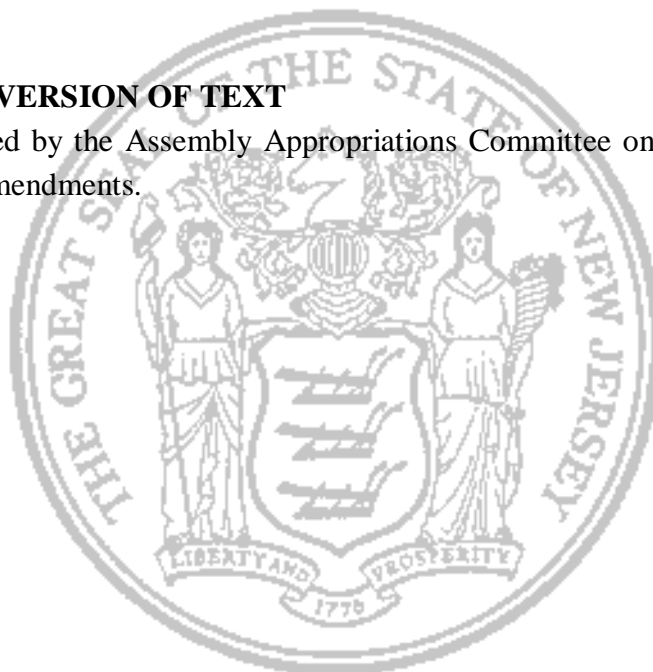
**Assemblywomen Quigley, Tucker, Assemblymen Coutinho, Coughlin,
Caputo, Prieto and Giblin**

SYNOPSIS

Reverses certain changes to laws governing State treatment of unclaimed property.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on November 21, 2011, with amendments.



(Sponsorship Updated As Of: 1/25/2011)

1 AN ACT concerning unclaimed property, amending ¹[various
2 sections of the Revised Statutes] R.S.46:30B-11, R.S.46:30B-12,
3 P.L.2010, c.25, P.L.2002, c.35, and P.L.2002, c.14¹,
4 supplementing ¹[P.L.1960, c.39 (C.56:8-1 et seq.), and repealing
5 section 5 of P.L.2010, c.25] Title 46 of the Revised Statutes¹.
6

7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*
9

10 ¹[1.R.S.46:30B-6 is amended to read as follows:

11 46:30B-6. Definitions.

12 As used in this chapter:

13 a. “Administrator” means the Treasurer of the State of New
14 Jersey, any individual serving as the Acting Treasurer in the
15 absence of the appointed Treasurer, and any State employee to
16 whom the Treasurer has delegated authority to administer the
17 provisions of this chapter and to execute any pertinent documents;

18 b. “Apparent owner” means the person whose name appears on
19 the records of the holder as the person entitled to property held,
20 issued, or owing by the holder;

21 c. (Deleted by amendment, P.L.2002, c.35).

22 d. “Business association” means a corporation, joint stock
23 company, investment company, business trust, partnership,
24 unincorporated association, joint venture, limited liability company,
25 safe deposit company, safekeeping depository, financial
26 organization, insurance company, mutual fund, utility or other
27 business entity consisting of one or more persons, whether or not
28 for profit;

29 e. “Domicile” means the state of incorporation of a corporation
30 and the state of the principal place of business of an unincorporated
31 person;

32 f. “Financial organization” means a savings and loan
33 association, building and loan association, credit union, savings
34 bank, industrial bank, bank, banking organization, trust company,
35 safe deposit company, private banker, or any organization defined
36 by other law as a bank or banking organization;

37 g. “Holder” means a person, wherever organized or domiciled,
38 who is the original obligor indebted to another on an obligation;

39 h. “Insurance company” means an association, corporation,
40 fraternal or mutual benefit organization, whether or not for profit,
41 which is engaged in providing insurance coverage, including
42 accident, burial, casualty, credit life, contract performance, dental,
43 fidelity, fire, health, hospitalization, illness, life (including

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted November 21, 2011.

- 1 endowments and annuities), malpractice, marine, mortgage, surety,
2 and wage protection insurance;
- 3 i. (Deleted by amendment, P.L.2002, c.35).
- 4 j. (Deleted by amendment, P.L.2002, c.35).
- 5 k. "Owner" means a person having a legal or equitable interest
6 in property subject to this chapter or the person's legal
7 representative and includes, but is not limited to, a depositor in the
8 case of a deposit, a beneficiary in the case of a trust other than a
9 deposit in trust, and a creditor, claimant, or payee in the case of
10 other property;
- 11 l. "Person" means an individual, business association, state or
12 other government, governmental subdivision or agency, public
13 corporation, public authority, estate, trust, two or more persons
14 having a joint or common interest, or any other legal or commercial
15 entity;
- 16 m. "State" means any state in the United States, district,
17 commonwealth, territory, insular possession, or any other area
18 subject to the jurisdiction of the United States;
- 19 n. "Utility" means a person who owns or operates for public
20 use any plant, equipment, property, franchise, or license for the
21 transmission of communications or the production, storage,
22 transmission, sale, delivery, or furnishing of electricity, water,
23 steam, or gas;
- 24 o. "Mineral" means gas, oil, coal, other gaseous, liquid and
25 solid hydrocarbons, oil shale, cement material, sand and gravel,
26 road material, building stone, chemical raw material, gemstone,
27 fissionable and nonfissionable ores, colloidal and other clay, steam
28 and other geothermal resources, or any other substance defined as a
29 mineral by the law of this State;
- 30 p. "Mineral proceeds" means amounts payable for the
31 extraction, production, or sale of minerals, or, upon the
32 abandonment of those payments, all payments that become payable
33 thereafter, and includes, but is not limited to, amounts payable:
34 for the acquisition and retention of a mineral lease, including
35 bonuses, royalties, compensatory royalties, shut-in royalties,
36 minimum royalties, and delay rentals;
37 for the extraction, production, or sale of minerals, including net
38 revenue interests, royalties, overriding royalties, extraction
39 payments, and production payments; and
40 under an agreement of option, including a joint operating
41 agreement, pooling agreement, and farm-out agreement;
- 42 q. "Money order" means an express money order and a
43 personal money order, on which the remitter is the purchaser;
- 44 r. "Property" means tangible property described in
45 R.S.46:30B-45 or a fixed and certain interest in intangible property
46 that is held, issued, or owed in the course of a holder's business, or
47 by a government, government subdivision, agency, or

1 instrumentality, and all income or increments therefrom, and
2 includes property that is referred to as or evidenced by:
3 money, a check, draft, deposit, interest, or dividend;
4 **【stored value card;】**
5 credit balance, customer's overpayment, security deposit, refund,
6 credit memorandum, unpaid wage, unused ticket, mineral proceeds
7 or unidentified remittance;
8 stock or other evidence of ownership of an interest in a business
9 association or financial organization;
10 a bond, debenture, note, or other evidence of indebtedness;
11 money deposited to redeem stock, bonds, coupons, or other
12 securities or distributions;
13 an amount due and payable under the terms of an annuity or
14 insurance policy, including policies providing life insurance,
15 property and casualty insurance, workers compensation insurance,
16 or health and disability insurance; and
17 an amount distributable from a trust or custodial fund established
18 under a plan to provide health, welfare, pension, vacation,
19 severance, retirement, death stock purchase, profit sharing,
20 employee savings, supplemental unemployment, insurance, or
21 similar benefits; and
22 s. "Record" means information that is inscribed on a tangible
23 medium or that is stored in an electronic or other medium and is
24 retrievable in perceivable form**【; and**
25 t. "Stored value card" means a record that evidences a promise,
26 made for monetary or other consideration, by the issuer or seller of
27 the record that the owner of the record will be provided, solely or a
28 combination of, merchandise, services, or cash in the value shown
29 in the record, which is pre-funded and the value of which is reduced
30 upon each redemption. The term "stored value card" includes, but
31 is not limited to the following items: paper gift certificates, records
32 that contain a microprocessor chip, magnetic stripe or other means
33 for the storage of information, gift cards, electronic gift cards,
34 rebate cards, stored-value cards or certificates, store cards, and
35 similar records or cards**】**.
36 (cf: P.L.2010, c.25, s.1)**】**¹

37

38 **【2.】** 1.¹ R.S.46:30B-11 is amended to read as follows:
39 46:30B-11. Presumption of abandonment of travelers check.
40 Subject to R.S.46:30B-14, any sum payable on a travelers check
41 that has been outstanding for more than **【three】** 15 years after its
42 issuance is presumed abandoned unless the owner, within **【three】**
43 15 years, has communicated in writing with the issuer concerning it
44 or otherwise indicated an interest as evidenced by a
45 contemporaneous memorandum or other record on file prepared by
46 an employee of the issuer.
47 (cf: P.L.2010, c.25, s.2)

1 **'[3.] 2.'** R.S.46:30B-12 is amended to read as follows:
2 46:30B-12. Presumption of abandonment of money order.
3 Subject to R.S.46:30B-14, any sum payable on a money order or
4 similar written instrument that has been outstanding for more than
5 **[three] seven** years after its issuance is presumed abandoned unless
6 the owner, within **[three] seven** years, has communicated in writing
7 with the issuer concerning it or otherwise indicated an interest as
8 evidenced by a contemporaneous memorandum or other record on
9 file prepared by an employee of the issuer.
10 (cf: P.L.2010, c.25, s.3)

11
12 **'3.** Section 5 of P.L.2010, c.25 (C.46:30B-42.1) is amended to
13 read as follows:

14 5. a. A stored value card for which there has been no stored value
15 card activity for two years is presumed abandoned.

16 Provided however, no stored value card issued on or after the
17 date of enactment of P.L. , c. (C.) (pending before the
18 Legislature as this bill) shall be subject to presumed abandonment
19 pursuant to this section or any other provisions of the Uniform
20 Unclaimed Property Act.

21 b. The proceeds of a stored value card presumed abandoned shall
22 be the value of the card, in money, on the date the stored value card
23 is presumed abandoned.

24 c. An issuer of a stored value card shall obtain the name and
25 address of the purchaser or owner of each stored value card issued
26 or sold and shall, at a minimum, maintain a record of the zip code
27 of the owner or purchaser.

28 If the issuer of a stored value card does not have the name and
29 address of the purchaser or owner of the stored value card, the
30 address of the owner or purchaser of the stored value card shall
31 assume the address of the place where the stored value card was
32 purchased or issued and shall be reported to New Jersey if the place
33 of business where the stored value card was sold or issued is located
34 in New Jersey.

35 Provided however, no stored value card issued on or after the
36 date of enactment of P.L. , c. (C.) (pending before the
37 Legislature as this bill) shall be subject to this subsection.

38 d. Nothing in this section shall be construed to prevent an issuer
39 from honoring a stored value card, the unredeemed value of which
40 has been reported to the State Treasurer pursuant to R.S.46:30B-1 et
41 seq., and thereafter seeking reimbursement from the State Treasurer
42 pursuant to R.S.46:30B-62.

43 e. **[This section]** Section 37 of P.L.2002, c.35 (C.46:30B-43.1)
44 does not apply to a stored value card that is distributed by the issuer
45 to a person under a promotional or customer loyalty program or a
46 charitable program for which no monetary or other consideration
47 has been tendered by the owner and this section does not apply to a

1 stored value card issued by any issuer that in the past year sold
2 stored value cards with a face value of \$250,000 or less. For
3 purposes of this subsection, sales of stored value cards by
4 businesses that operate either (1) under the same trade name as or
5 under common ownership or control with another business or
6 businesses in the State, or (2) as franchised outlets of a parent
7 business, shall be considered sales by a single issuer.

8 f. The State Treasurer is authorized to grant an exemption from
9 **[such provisions]** section 37 of P.L.2002, c.35 (C.46:30B-43.1)
10 concerning stored value cards, on such terms and conditions as the
11 State Treasurer may require, for a business or class of businesses
12 that demonstrate good cause to the satisfaction of the State
13 Treasurer. In exercising his discretion pursuant to this section, the
14 State Treasurer may consider relevant factors including, but not
15 limited to, the amount of stored value card transactions processed,
16 the technology in place, whether or not stored value cards issued
17 contain a microprocessor chip, magnetic strip, or other means
18 designed to trace and capture information about place and date of
19 purchase, and such other factors as the State Treasurer shall deem
20 relevant.

21 g. Notwithstanding the provisions of this act or any other law to
22 the contrary, for stored value cards subject to presumed
23 abandonment pursuant to this section or any other provisions of the
24 Uniform Unclaimed Property Act only a stored value card which is
25 exempt from the provisions of this act pursuant to subsection e. or f.
26 of this section shall be deemed a gift card or gift certificate for
27 purposes of P.L.2002, c.14 (C.56:8-110 et seq.).

28 h. As used in this section:

29 “Stored value card activity” means the purchase or issuance of
30 the stored value card, a transaction executed by the owner that
31 increased or decreased the value of the stored value card, or
32 communication by the owner of the stored value card with the
33 issuer of the stored value card concerning the value of the balance
34 remaining on the stored value card as evidenced by a
35 contemporaneous record prepared by or on behalf of the issuer.

36 “Issuer” means an issuer or seller of a stored value card that is a
37 person, retailer, merchant, vendor, provider or business association
38 with the obligations of a holder to accept the stored value card as
39 redeemable for, solely or a combination of, merchandise, services,
40 or cash, and to report and deliver proceeds of the stored value card
41 if abandoned.¹

42 (cf: P.L.2010, c.25, s.5)

43

44 ¹[4.R.S.46:30B-13 is amended to read as follows:

45 46:30B-13. Limitation on holder's power to impose service
46 charges. A holder may not deduct from the amount of a travelers
47 check or money order any charge imposed by reason of the failure
48 to present the instrument for payment unless there is a valid and

1 enforceable written contract between the issuer and the owner of the
2 instrument pursuant to which the issuer may impose a charge and
3 the issuer regularly imposes the charges and does not regularly
4 reverse or otherwise cancel them. The amount of the deduction
5 shall be limited to an amount **[not to exceed \$2 per month.**
6 **Notwithstanding any provision of this section to the contrary, no**
7 **service charge, dormancy fee or other similar charge shall be**
8 **imposed against a travelers check or money order within the twelve**
9 **months immediately following the date of sale] that is not**
10 **unconscionable.**
11 (cf: P.L.2010, c.25, s.4)]¹

12
13 **'[5.] 4.'** Section 37 of P.L.2002, c.35 (C.46:30B-43.1) is
14 amended to read as follows:

15 37. Limitation on holder's power to impose charges. A holder
16 **[of property] '[may not deduct from the amount of any instrument**
17 **subject to]'** **[R.S.46:30B-42, section 5 of P.L.2010, c.25**
18 **(C.46:30B-42.1), and] '[R.S.46:30B-43]' **[shall not impose on the**
19 **property a dormancy] '[any charge]' **[or fee, abandoned property]**
20 **'[imposed by reason of the failure to present the instrument for**
21 **payment unless there is a valid and enforceable written contract**
22 **between the issuer and owner of the instrument pursuant to which**
23 **the issuer may impose a charge]' **[or fee, unclaimed property**
24 **charge or fee, escheat charge or fee, inactivity charge or fee, or any**
25 **similar charge, fee or penalty for inactivity with respect to the**
26 **property. Neither the property nor an agreement with respect to the**
27 **property may contain language suggesting that the property may]**
28 **'[and the issuer regularly imposes the charges and does not**
29 **regularly reverse or otherwise cancel them. The amount of the**
30 **deduction shall be]' **[subject to that kind of charge, fee or penalty**
31 **for inactivity] '[limited to an amount that is not unconscionable]**
32 **of property subject to R.S.46:30B-42, section 5 of P.L.2010, c.25**
33 **(C.46:30B-42.1), and R.S.46:30B-43 shall not impose on the**
34 **property a dormancy charge or fee, abandoned property charge or**
35 **fee, unclaimed property charge or fee, escheat charge or fee,**
36 **inactivity charge or fee, or any similar charge, fee or penalty for**
37 **inactivity with respect to the property. Neither the property nor an**
38 **agreement with respect to the property may contain language**
39 **suggesting that the property may be subject to that kind of charge,**
40 **fee or penalty for inactivity.**********

41 **A stored value card issuer, as defined pursuant to section 5 of**
42 **P.L.2010, c.25 (C.46:30B-42.1) except as to the obligation to report**
43 **and deliver the proceeds of an abandoned stored value card, shall be**
44 **subject to the limits on holder imposed charges of this section.**
45 **Provided however, the application of this section is subject to the**
46 **exemptions provided pursuant to subsections e. and f. of section 5**
47 **of P.L.2010, c.25 (C. 46:30B-42.1). If a stored value card is**

1 exempt from this section pursuant to subsections e. and f. of section
2 5 of P.L.2010, c.25 (C. 46:30B-42.1) the stored value card shall be
3 subject to section 1 of P.L.2002, c.14 (C.56:8-110) as provided
4 therein¹.

5 (cf: P.L.2010, c.25, s.6)

6
7 ¹5. Section 1 of P.L.2002, c.14 (C.56:8-110) is amended to read
8 as follows:

9 1. a. A gift certificate or gift card sold after the effective date of
10 this amendatory act shall retain full unused value until presented in
11 exchange for merchandise, or shall have any and all conditions and
12 limitations, as permitted in paragraphs (1) through (3) of this
13 subsection, disclosed to the purchaser of the gift certificate or gift
14 card at the time of purchase as provided in subsection b. of this
15 section.

16 (1) In no case shall a gift certificate or gift card expire within the
17 24 months immediately following the date of sale.

18 (2) No dormancy fee shall be charged against a gift certificate or
19 a gift card within the 24 months immediately following the date of
20 sale, nor shall one be charged within the 24 months immediately
21 following the most recent activity or transaction in which the
22 certificate or card was used.

23 (3) A dormancy fee charged against a gift certificate or gift card
24 as permitted by this subsection shall not exceed \$2.00 per month.

25 b. The terms of any expiration date or dormancy fee applicable to
26 a gift certificate or gift card, as permitted by subsection a. of this
27 section, shall be disclosed to a consumer by:

28 (1) written notice of the expiration date or dormancy fee or both
29 printed in at least 10 point font, on the gift certificate or gift card, or
30 the sales receipt for the certificate or card, or the package for the
31 certificate or card; and

32 (2) written notice, in at least 10 point font, on the gift certificate
33 or gift card, or the sales receipt for the certificate or card, or the
34 package for the certificate or card, of a telephone number which the
35 consumer may call, for information concerning any expiration date
36 or dormancy fee.

37 c. As used in this section:

38 "Dormancy fee" means a charge imposed against the unused
39 value of a gift card or gift certificate due to inactivity;

40 "Gift card" means a tangible device, whereon is embedded or
41 encoded in an electronic or other format a value issued in exchange
42 for payment, which promises to provide to the bearer merchandise
43 of equal value to the remaining balance of the device. "Gift card"
44 does not include a prepaid telecommunications or technology card,
45 prepaid bank card **[or]**, rewards card or stored value card subject to
46 section 37 of P.L.2002, c.35 (C.46:30B-43.1);

47 "Gift certificate" means a written promise given in exchange for
48 payment to provide merchandise in a specified amount or of equal

1 value to the bearer of the certificate. "Gift certificate" does not
2 include a prepaid telecommunications or technology card, prepaid
3 bank card **[or]**, rewards card or stored value card subject to section
4 37 of P.L.2002, c.35 (C.46:30B-43.1);

5 "Merchandise" means and includes any objects, wares, goods,
6 commodities, services or anything offered, directly or indirectly, to
7 the public for sale;

8 "Prepaid bank card" means a general use, prepaid card or other
9 electronic payment device that is issued by a bank or other financial
10 institution, or a licensed money transmitter, in a predenominated
11 amount usable at multiple, unaffiliated merchants or at automated
12 teller machines, or both, but shall not include a card issued by a
13 retail merchant;

14 "Prepaid telecommunications or technology card" includes, but is
15 not limited to: a prepaid telephone calling card; prepaid technical
16 support card; or prepaid Internet disk distributed to or purchased by
17 a consumer; and

18 "Rewards card" means a card or certificate distributed by the
19 issuer to a consumer pursuant to an awards, loyalty, rewards or
20 promotional program, without any money or other consideration or
21 thing of value by the consumer in exchange for the card or
22 certificate.¹

23 (cf: P.L.2005, c.254, s.1)

24

25 ¹[6.R.S.46:30B-62 is amended to read as follows:

26 46:30B-62. Reimbursement of holder paying claim. A holder
27 who has paid money to the administrator pursuant to this chapter
28 may make payment to any person appearing to the holder to be
29 entitled to payment and, upon filing proof of payment and proof
30 that the payee was entitled thereto, the administrator shall promptly
31 reimburse the holder for the payment without imposing any fee or
32 other charge. If reimbursement is sought for a payment made on a
33 negotiable instrument, including a **[stored value card,]** travelers
34 check or money order, the holder shall be reimbursed under this
35 section upon filing proof that the instrument was duly presented and
36 that payment was made to a person who appeared to the holder to
37 be entitled to payment. The holder shall be reimbursed for payment
38 made under this section even if the payment was made to a person
39 whose claim was barred under R.S.46:30B-88.

40 (cf: P.L.2010, c.25, s.7)]¹

41

42 ¹[7.(New section) a. Notwithstanding any other provisions of
43 law to the contrary, a money order sold after the effective date of
44 P.L.2007, c.326 (C.56:8-182 et seq.) shall retain full value until
45 presented for payment, or shall have all conditions and limitations,
46 as permitted in paragraphs (1) and (2) of this subsection, disclosed

1 to the purchaser of the money order at the time of purchase, as
2 provided in subsection b. of this section.

3 (1) No dormancy fee shall be charged against a money order
4 within the 12 months immediately following the date of sale.

5 (2) An issuer of a money order may charge a dormancy fee
6 against a money order, as permitted by this subsection, of not more
7 than \$2 per month.

8 b. The terms of any dormancy fee applicable to a money order,
9 as permitted by subsection a. of this section, shall be disclosed by
10 an issuer to a consumer by:

11 (1) written notice of the dormancy fee on the money order or the
12 sales receipt for the money order; and

13 (2) written notice on the money order or the sales receipt for the
14 money order, of a telephone number which the consumer may call
15 for information concerning any dormancy fee.

16 c. As used in this section, "dormancy fee" means a charge
17 imposed against the value of a money order due to inactivity.】¹

18

19 ¹【8.(New section) It shall be an unlawful practice and a
20 violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate the
21 provisions of section 7 of P.L. , c. (C.) (pending before
22 the Legislature as this bill).】¹

23

24 ¹【9.(New section) The Director of the Division of Consumer
25 Affairs in the Department of Law and Public Safety shall
26 promulgate regulations pursuant to the "Administrative Procedure
27 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate sections 7
28 and 8 of P.L. , c. (C.) (pending before the Legislature as
29 this bill).】¹

30

31 ¹【10. Section 5 of P.L.2010, c.25 (46:30B-42.1) is
32 repealed.】¹

33

34 ¹【11.】¹ (New section) ¹【P.L. , c. (C.) (pending
35 before the Legislature as this bill) shall supersede the enactment of
36 P.L.2010, c.25.】¹ Notwithstanding any provision of the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.) to the contrary, the State Treasurer may adopt immediately
39 upon filing with the Office of Administrative Law such regulations
40 as the ¹【director】 State Treasurer¹ deems necessary to implement
41 the provisions of P.L. , c. (C.) (pending before the
42 Legislature as this bill) ¹【and reimburse issuers for all property
43 which would not have been reported but for P.L.2010, c.25】¹,
44 which regulations shall be effective for a period not to exceed 180
45 days following the date of enactment of P.L. , c. (C.)
46 (pending before the Legislature as this bill) and may thereafter be
47 amended, adopted, or readopted by the State Treasurer in

A3250 [1R] DIEGNAN, MORIARTY

11

1 accordance with the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.).

3

4 ~~'[12.] 7.'~~ This act shall take effect immediately and sections 1
5 ~~'[through 10] 2, 3, 4, and 5'~~ shall ~~'[be retroactive to July 1, 2010]~~
6 apply to travelers checks, money orders and stored value cards
7 issued on or after the date of enactment'.