

SENATE, No. 2112

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:

Senator ANTHONY R. BUCCO

District 25 (Morris)

SYNOPSIS

Adjusts time periods for presumptions of abandonment, limits issuer imposed dormancy fees, and provides for related administration for certain unclaimed property.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning presumptions of abandonment, issuer imposed
2 dormancy fees and related administration of certain unclaimed
3 properties, amending and supplementing chapter 30B of Title 46
4 of the Revised Statutes and repealing parts of the statutory law.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. R.S.46:30B-6 is amended to read as follows:
10 46:30B-6. Definitions.

11 As used in this chapter:

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

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

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

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

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

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

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

38 h. "Insurance company" means an association, corporation,
39 fraternal or mutual benefit organization, whether or not for profit,
40 which is engaged in providing insurance coverage, including
41 accident, burial, casualty, credit life, contract performance, dental,
42 fidelity, fire, health, hospitalization, illness, life (including
43 endowments and annuities), malpractice, marine, mortgage, surety,
44 and wage protection insurance;

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.

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

1 stored value card;
2 credit balance, customer's overpayment, security deposit, refund,
3 credit memorandum, unpaid wage, unused ticket, mineral proceeds
4 or unidentified remittance;
5 stock or other evidence of ownership of an interest in a business
6 association or financial organization;
7 a bond, debenture, note, or other evidence of indebtedness;
8 money deposited to redeem stock, bonds, coupons, or other
9 securities or distributions;
10 an amount due and payable under the terms of an annuity or
11 insurance policy, including policies providing life insurance,
12 property and casualty insurance, workers compensation insurance,
13 or health and disability insurance; and
14 an amount distributable from a trust or custodial fund established
15 under a plan to provide health, welfare, pension, vacation,
16 severance, retirement, death stock purchase, profit sharing,
17 employee savings, supplemental unemployment, insurance, or
18 similar benefits; **[and]**
19 s. "Record" means information that is inscribed on a tangible
20 medium or that is stored in an electronic or other medium and is
21 retrievable in perceivable form; and
22 t. "Stored value card" means a record that evidences a
23 promise, made for monetary or other consideration, by the issuer or
24 seller of the record that the owner of the record will be provided,
25 solely or a combination of, merchandise, services, or cash in the
26 value shown in the record, which is pre-funded and the value of
27 which is reduced upon each redemption. The term "stored value
28 card" includes, but is not limited to the following items: paper gift
29 certificates, records that contain a microprocessor chip, magnetic
30 stripe or other means for the storage of information, gift cards,
31 electronic gift cards, rebate cards, stored-value cards or certificates,
32 store cards, and similar records or cards.
33 (cf: P.L.2002, c.35, s.3)

34
35 2. R.S.46:30B-11 is amended to read as follows:
36 46:30B-11. Presumption of abandonment of travelers check.
37 Subject to R.S.46:30B-14, any sum payable on a travelers check
38 that has been outstanding for more than **[15]** three years after its
39 issuance is presumed abandoned unless the owner, within **[15]**
40 three years, has communicated in writing with the issuer concerning
41 it or otherwise indicated an interest as evidenced by a
42 contemporaneous memorandum or other record on file prepared by
43 an employee of the issuer.
44 (cf: P.L.2002, c.35, s.10)

45
46 3. R.S.46:30B-12 is amended to read as follows:
47 46:30B-12. Presumption of abandonment of money order.
48 Subject to R.S.46:30B-14, any sum payable on a money order or

1 similar written instrument that has been outstanding for more than
2 **[seven] three** years after its issuance is presumed abandoned unless
3 the owner, within **[seven] three** years, has communicated in writing
4 with the issuer concerning it or otherwise indicated an interest as
5 evidenced by a contemporaneous memorandum or other record on
6 file prepared by an employee of the issuer.

7 (cf: P.L.2002, c.35, s.11)

8

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

10 46:30B-13. Limitation on holder's power to impose service
11 charges. A holder may not deduct from the amount of a travelers
12 check or money order any charge imposed by reason of the failure
13 to present the instrument for payment unless there is a valid and
14 enforceable written contract between the issuer and the owner of the
15 instrument pursuant to which the issuer may impose a charge and
16 the issuer regularly imposes the charges and does not regularly
17 reverse or otherwise cancel them. The amount of the deduction
18 shall be limited to an amount **[that is not unconscionable] not to**
19 exceed \$2 per month. Notwithstanding any provision of this section
20 to the contrary, no service charge, dormancy fee or other similar
21 charge shall be imposed against a travelers check or money order
22 within the twelve months immediately following the date of sale.

23 (cf: P.L.2002, c.35, s.12)

24

25 5. (New section) a. A stored value card for which there has
26 been no stored value card activity for one year is presumed
27 abandoned.

28 b. The proceeds of a stored value card presumed abandoned
29 shall be the value of the card, in money, on the date the stored value
30 card is presumed abandoned.

31 c. An issuer of a stored value card shall obtain the name and
32 address of the purchaser or owner of each stored value card issued
33 or sold and shall, at a minimum, maintain a record of the zip code
34 of the owner or purchaser.

35 If the issuer of a stored value card does not have the name and
36 address of the purchaser or owner of the stored value card, the
37 address of the owner or purchaser of the stored value card shall
38 assume the address of the place where the stored value card was
39 purchased or issued and shall be reported to New Jersey if the place
40 of business where the stored value card was sold or issued is located
41 in New Jersey.

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

47 e. This section does not apply to a stored value card that is
48 distributed by the issuer to a person under a promotional or

1 charitable program for which no monetary or other consideration
2 has been tendered by the owner.

3 f. The State Treasurer is authorized to grant an exemption from
4 such provisions concerning stored value cards, on such terms and
5 conditions as the State Treasurer may require, for a business or
6 class of businesses that demonstrate good cause to the satisfaction
7 of the State Treasurer. In exercising his discretion pursuant to this
8 section, the State Treasurer may consider relevant factors including,
9 but not limited to, the amount of stored value card transactions
10 processed, the technology in place, whether or not stored value
11 cards issued contain a microprocessor chip, magnetic strip, or other
12 means designed to trace and capture information about place and
13 date of purchase, and such other factors as the State Treasurer shall
14 deem relevant.

15 g. As used in this section:

16 “Stored value card activity” means the purchase or issuance of
17 the stored value card, a transaction executed by the owner that
18 increased or decreased the value of the stored value card, or
19 communication by the owner of the stored value card with the
20 issuer of the stored value card concerning the value of the balance
21 remaining on the stored value card as evidenced by a
22 contemporaneous record prepared by or on behalf of the issuer.

23 “Issuer” means an issuer or seller of a stored value card that is a
24 person, retailer, merchant, vendor, provider or business association
25 with the obligations of a holder to accept the stored value card as
26 redeemable for, solely or a combination of, merchandise, services,
27 or cash, and to report and deliver proceeds of the stored value card
28 if abandoned.

29

30 6. Section 37 of P.L.2002, c.35 (C.46:30B-43.1) is amended to
31 read as follows:

32 37. Limitation on holder's power to impose charges. A holder
33 **【may not deduct from the amount of any instrument】** of property
34 subject to R.S.46:30B-42, section 5 of P.L. , c. (C.)
35 (pending before the legislature as this bill), and R.S.46:30B-43
36 **【any】** shall not impose on the property a dormancy charge
37 **【imposed by reason of the failure to present the instrument for**
38 **payment unless there is a valid and enforceable written contract**
39 **between the issuer and owner of the instrument pursuant to which**
40 **the issuer may impose a】** or fee, abandoned property charge 【and
41 the issuer regularly imposes the charges and does not regularly
42 reverse or otherwise cancel them. The amount of the deduction
43 shall】 or fee, unclaimed property charge or fee, escheat charge or
44 fee, inactivity charge or fee, or any similar charge, fee or penalty
45 for inactivity with respect to the property. Neither the property nor
46 an agreement with respect to the property may contain language
47 suggesting that the property may be 【limited to an amount that is

1 not unconscionable] subject to that kind of charge, fee or penalty
2 for inactivity.

3 (cf: P.L.2002, c.35, s.37)

4

5 7. R.S.46:30B-62 is amended to read as follows:

6 46:30B-62. Reimbursement of holder paying claim. A holder
7 who has paid money to the administrator pursuant to this chapter
8 may make payment to any person appearing to the holder to be
9 entitled to payment and, upon filing proof of payment and proof
10 that the payee was entitled thereto, the administrator shall promptly
11 reimburse the holder for the payment without imposing any fee or
12 other charge. If reimbursement is sought for a payment made on a
13 negotiable instrument, including a stored value card, travelers check
14 or money order, the holder shall be reimbursed under this section
15 upon filing proof that the instrument was duly presented and that
16 payment was made to a person who appeared to the holder to be
17 entitled to payment. The holder shall be reimbursed for payment
18 made under this section even if the payment was made to a person
19 whose claim was barred under R.S.46:30B-88.

20 (cf: P.L.1989, c.58, s.1)

21

22 8. The following sections are repealed:

23 Sections 1 through 3 of P.L.2002, c.14 (C.56:8-110 et seq.); and

24 Sections 1 through 3 of P.L.2007, c.326 (C.56:8-182 et seq.).

25

26 9. This act shall take effect July 1, 2010 and apply to travelers
27 checks, money orders, stored value cards, credit balances, customer
28 overpayments, security deposits, refunds, credit memoranda, unused
29 tickets, or similar instruments outstanding on and after the July 1,
30 2010, including, but not limited to, those outstanding instruments
31 issued before July 1, 2010.

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STATEMENT

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36 This bill modifies the State's unclaimed property laws to adjust
37 the time periods for presumptions of abandonment, limit issuer
38 imposed dormancy fees, and provide for related administration of
39 certain unclaimed property. The primary purposes of this measure
40 are to protect New Jersey consumers from certain commercial
41 dormancy fee practices and modernize the State's unclaimed
42 property laws.

43 The bill provides the following presumptions of abandonment:

- 44 • Adjusts the period of time which triggers abandonment for
45 travelers checks from 15 to 3 years;
- 46 • Adjusts the period of time which triggers abandonment for
47 money orders from 7 to 3 years; and

- 1 • Creates a 1 year trigger for abandonment of stored value cards.
2 The bill's definition of stored value cards, includes, but is not
3 limited to, paper gift certificates, gift cards and rebate cards.
4 Stored value cards do not include similar cards issued under a
5 promotional or charitable program.
- 6 The bill also limits the imposition of dormancy fees as follows:
- 7 • Precludes the imposition of dormancy fees on travelers checks
8 or money orders in the first 12 months after issuance and limits
9 permissible dormancy fees to \$2 per month; and
- 10 • Precludes the imposition of dormancy fees on stored value
11 cards, credit balances, overpayments, security deposits, unused
12 tickets, refunds, credit memoranda and similar instruments.
- 13 The bill also includes stored value cards into an existing
14 reimbursement process for escheated properties so that if an
15 escheated stored value card is subsequently claimed by an owner
16 and honored by the issuer, the State can reimburse the issuer.
- 17 Additionally, the bill requires stored value card issuers to obtain
18 the name and address of purchasers and to maintain, at a minimum,
19 a record of the zip code of the purchaser. In instances where an
20 issuer does not have the name and address of a purchaser, the
21 address of the purchaser shall assume the address of the place where
22 the stored value card is purchased, if that place is located in New
23 Jersey. These provisions are designed to modernize the State's
24 unclaimed property processes relative to other states and enhance
25 New Jersey's capacity to protect its residents' stored value cards
26 from being subject to other state's escheatment processes.
- 27 The bill also authorizes the State Treasurer to grant an exemption
28 from such provisions concerning stored value cards, on such terms
29 and conditions as the State Treasurer may require, for a business or
30 class of businesses that demonstrate good cause. In determining
31 whether to exercise the discretion to grant an exemption, the State
32 Treasurer may consider relevant factors including, but not limited
33 to, the amount of stored value card transactions processed, the
34 technology in place, whether or not stored value cards issued
35 contain a microprocessor chip, magnetic strip, or other means
36 designed to trace and capture information about place and date of
37 purchase, and such other factors as the State Treasurer shall deem
38 relevant.
- 39 The bill takes effect July 1, 2010 and applies to stored value
40 cards, travelers checks, money orders and certain similar
41 instruments outstanding on and after July 1, 2010, including, but
42 not limited to, those issued before July 1, 2010.