

P.L.2010, CHAPTER 25, *approved June 29, 2010*
Assembly, No. 3002
(CORRECTED COPY)

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;

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

1 r. "Property" means tangible property described in
2 R.S.46:30B-45 or a fixed and certain interest in intangible property
3 that is held, issued, or owed in the course of a holder's business, or
4 by a government, government subdivision, agency, or
5 instrumentality, and all income or increments therefrom, and
6 includes property that is referred to as or evidenced by:

7 money, a check, draft, deposit, interest, or dividend;

8 stored value card;

9 credit balance, customer's overpayment, security deposit, refund,
10 credit memorandum, unpaid wage, unused ticket, mineral proceeds
11 or unidentified remittance;

12 stock or other evidence of ownership of an interest in a business
13 association or financial organization;

14 a bond, debenture, note, or other evidence of indebtedness;

15 money deposited to redeem stock, bonds, coupons, or other
16 securities or distributions;

17 an amount due and payable under the terms of an annuity or
18 insurance policy, including policies providing life insurance,
19 property and casualty insurance, workers compensation insurance,
20 or health and disability insurance; and

21 an amount distributable from a trust or custodial fund established
22 under a plan to provide health, welfare, pension, vacation,
23 severance, retirement, death stock purchase, profit sharing,
24 employee savings, supplemental unemployment, insurance, or
25 similar benefits; **[and]**

26 s. "Record" means information that is inscribed on a tangible
27 medium or that is stored in an electronic or other medium and is
28 retrievable in perceivable form; and

29 t. "Stored value card" means a record that evidences a
30 promise, made for monetary or other consideration, by the issuer or
31 seller of the record that the owner of the record will be provided,
32 solely or a combination of, merchandise, services, or cash in the
33 value shown in the record, which is pre-funded and the value of
34 which is reduced upon each redemption. The term "stored value
35 card" includes, but is not limited to the following items: paper gift
36 certificates, records that contain a microprocessor chip, magnetic
37 stripe or other means for the storage of information, gift cards,
38 electronic gift cards, rebate cards, stored-value cards or certificates,
39 store cards, and similar records or cards.

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

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42 2. R.S.46:30B-11 is amended to read as follows:

43 46:30B-11. Presumption of abandonment of travelers check.
44 Subject to R.S.46:30B-14, any sum payable on a travelers check
45 that has been outstanding for more than **[15]** three years after its
46 issuance is presumed abandoned unless the owner, within **[15]**
47 three years, has communicated in writing with the issuer concerning
48 it or otherwise indicated an interest as evidenced by a

1 contemporaneous memorandum or other record on file prepared by
2 an employee of the issuer.

3 (cf: P.L.2002, c.35, s.10)

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5 3. R.S.46:30B-12 is amended to read as follows:

6 46:30B-12. Presumption of abandonment of money order.
7 Subject to R.S.46:30B-14, any sum payable on a money order or
8 similar written instrument that has been outstanding for more than
9 **[seven]** three years after its issuance is presumed abandoned unless
10 the owner, within **[seven]** three years, has communicated in writing
11 with the issuer concerning it or otherwise indicated an interest as
12 evidenced by a contemporaneous memorandum or other record on
13 file prepared by an employee of the issuer.

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

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

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

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

31

32 5. (New section) a. A stored value card for which there has
33 been no stored value card activity for two years is presumed
34 abandoned.

35 b. The proceeds of a stored value card presumed abandoned
36 shall be the value of the card, in money, on the date the stored value
37 card is presumed abandoned.

38 c. An issuer of a stored value card shall obtain the name and
39 address of the purchaser or owner of each stored value card issued
40 or sold and shall, at a minimum, maintain a record of the zip code
41 of the owner or purchaser.

42 If the issuer of a stored value card does not have the name and
43 address of the purchaser or owner of the stored value card, the
44 address of the owner or purchaser of the stored value card shall
45 assume the address of the place where the stored value card was
46 purchased or issued and shall be reported to New Jersey if the place
47 of business where the stored value card was sold or issued is located
48 in New Jersey.

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

6 e. This section does not apply to a stored value card that is
7 distributed by the issuer to a person under a promotional or
8 customer loyalty program or a charitable program for which no
9 monetary or other consideration has been tendered by the owner and
10 this section does not apply to a stored value card issued by any
11 issuer that in the past year sold stored value cards with a face value
12 of \$250,000 or less. For purposes of this subsection, sales of stored
13 value cards by businesses that operate either (1) under the same
14 trade name as or under common ownership or control with another
15 business or businesses in the State, or (2) as franchised outlets of a
16 parent business, shall be considered sales by a single issuer.

17 f. The State Treasurer is authorized to grant an exemption from
18 such provisions concerning stored value cards, on such terms and
19 conditions as the State Treasurer may require, for a business or
20 class of businesses that demonstrate good cause to the satisfaction
21 of the State Treasurer. In exercising his discretion pursuant to this
22 section, the State Treasurer may consider relevant factors including,
23 but not limited to, the amount of stored value card transactions
24 processed, the technology in place, whether or not stored value
25 cards issued contain a microprocessor chip, magnetic strip, or other
26 means designed to trace and capture information about place and
27 date of purchase, and such other factors as the State Treasurer shall
28 deem relevant.

29 g. Notwithstanding the provisions of this act or any other law to
30 the contrary, only a stored value card which is exempt from the
31 provisions of this act pursuant to subsection e. or f. of this section
32 shall be deemed a gift card or gift certificate for purposes of
33 P.L.2002, c.14 (C.56:8-110 et seq.).

34 h. As used in this section:

35 "Stored value card activity" means the purchase or issuance of
36 the stored value card, a transaction executed by the owner that
37 increased or decreased the value of the stored value card, or
38 communication by the owner of the stored value card with the
39 issuer of the stored value card concerning the value of the balance
40 remaining on the stored value card as evidenced by a
41 contemporaneous record prepared by or on behalf of the issuer.

42 "Issuer" means an issuer or seller of a stored value card that is a
43 person, retailer, merchant, vendor, provider or business association
44 with the obligations of a holder to accept the stored value card as
45 redeemable for, solely or a combination of, merchandise, services,
46 or cash, and to report and deliver proceeds of the stored value card
47 if abandoned.

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

3 37. Limitation on holder's power to impose charges. A holder
4 ~~【may not deduct from the amount of any instrument】 of property~~
5 subject to R.S.46:30B-42, section 5 of P.L. _____, c. _____
6 (pending before the legislature as this bill), and R.S.46:30B-43
7 ~~【any】 shall not impose on the property a dormancy charge~~
8 ~~【imposed by reason of the failure to present the instrument for~~
9 payment unless there is a valid and enforceable written contract
10 between the issuer and owner of the instrument pursuant to which
11 the issuer may impose a ~~】 or fee, abandoned property charge 【and~~
12 the issuer regularly imposes the charges and does not regularly
13 reverse or otherwise cancel them. The amount of the deduction
14 shall ~~】 or fee, unclaimed property charge or fee, escheat charge or~~
15 fee, inactivity charge or fee, or any similar charge, fee or penalty
16 for inactivity with respect to the property. Neither the property nor
17 an agreement with respect to the property may contain language
18 suggesting that the property may be 【limited to an amount that is
19 not unconscionable】 subject to that kind of charge, fee or penalty
20 for inactivity.
21 (cf: P.L.2002, c.35, s.37)

22
23 7. R.S.46:30B-62 is amended to read as follows:

24 46:30B-62. Reimbursement of holder paying claim. A holder
25 who has paid money to the administrator pursuant to this chapter
26 may make payment to any person appearing to the holder to be
27 entitled to payment and, upon filing proof of payment and proof
28 that the payee was entitled thereto, the administrator shall promptly
29 reimburse the holder for the payment without imposing any fee or
30 other charge. If reimbursement is sought for a payment made on a
31 negotiable instrument, including a stored value card, travelers check
32 or money order, the holder shall be reimbursed under this section
33 upon filing proof that the instrument was duly presented and that
34 payment was made to a person who appeared to the holder to be
35 entitled to payment. The holder shall be reimbursed for payment
36 made under this section even if the payment was made to a person
37 whose claim was barred under R.S.46:30B-88.
38 (cf: P.L.1989, c.58, s.1)

39
40 8. The following sections are repealed:
41 Sections 1 through 3 of P.L.2007, c.326 (C.56:8-182 et seq.).

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43 9. This act shall take effect July 1, 2010 and apply to travelers
44 checks, money orders, stored value cards, credit balances, customer
45 overpayments, security deposits, refunds, credit memoranda, unused
46 tickets, or similar instruments outstanding on and after the July 1,

1 2010, including, but not limited to, those outstanding instruments
2 issued before July 1, 2010.

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STATEMENT

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7 This bill modifies the State's unclaimed property laws to adjust
8 the time periods for presumptions of abandonment, limit issuer
9 imposed dormancy fees, and provide for related administration of
10 certain unclaimed property. The primary purposes of this measure
11 are to protect New Jersey consumers from certain commercial
12 dormancy fee practices and modernize the State's unclaimed
13 property laws.

14 The bill provides the following presumptions of abandonment:

- 15 • Adjusts the period of time which triggers abandonment for
16 travelers checks from 15 to 3 years;
- 17 • Adjusts the period of time which triggers abandonment for
18 money orders from 7 to 3 years; and
- 19 • Creates a 2 year trigger for abandonment of stored value cards.

20 The bill's definition of stored value cards, includes, but is not
21 limited to, paper gift certificates, gift cards and rebate cards.

22 The bill also limits the imposition of dormancy fees as follows:

- 23 • Precludes the imposition of dormancy fees on travelers checks
24 or money orders in the first 12 months after issuance and limits
25 permissible dormancy fees to \$2 per month; and
- 26 • Precludes the imposition of dormancy fees on stored value
27 cards, credit balances, overpayments, security deposits, unused
28 tickets, refunds, credit memoranda and similar instruments.

29 The bill also includes stored value cards into an existing
30 reimbursement process for escheated properties so that if an
31 escheated stored value card is subsequently claimed by an owner
32 and honored by the issuer, the State can reimburse the issuer.

33 Additionally, the bill requires stored value card issuers to obtain
34 the name and address of purchasers and to maintain, at a minimum,
35 a record of the zip code of the purchaser. In instances where an
36 issuer does not have the name and address of a purchaser, the
37 address of the purchaser shall assume the address of the place where
38 the stored value card is purchased, if that place is located in New
39 Jersey. These provisions are designed to modernize the State's
40 unclaimed property processes relative to other states and enhance
41 New Jersey's capacity to protect its residents' stored value cards
42 from being subject to the escheatment processes of other states.

43 Stored value cards issued under a promotional program, customer
44 loyalty program, charitable program or by a business selling
45 \$250,000 or less of stored value cards in the prior year are
46 exempted from the stored value card provisions of the bill.

47 The bill also authorizes the State Treasurer to grant an exemption
48 from such provisions concerning stored value cards, on such terms

1 and conditions as the State Treasurer may require, for a business or
2 class of businesses that demonstrate good cause. In determining
3 whether to exercise the discretion to grant an exemption, the State
4 Treasurer may consider relevant factors including, but not limited
5 to, the amount of stored value card transactions processed, the
6 technology in place, whether or not stored value cards issued
7 contain a microprocessor chip, magnetic strip, or other means
8 designed to trace and capture information about place and date of
9 purchase, and such other factors as the State Treasurer shall deem
10 relevant.

11 The bill specifies that only stored value cards exempted from the
12 unclaimed property provisions of the bill shall be deemed gift cards
13 or gift certificates subject to the consumer protections provided
14 under P.L.2002, c.14 (C.56:8-110 et seq.).

15 The bill takes effect July 1, 2010 and applies to stored value
16 cards, travelers checks, money orders and certain similar
17 instruments outstanding on and after July 1, 2010, including, but
18 not limited to, those issued before July 1, 2010.

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