

SENATE, No. 2681

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JANUARY 31, 2011

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning unclaimed property, amending various sections
2 of the Revised Statutes and P.L.2002, c.35, supplementing
3 P.L.1960, c.39 (C.56:8-1 et seq.) and Title 46 of the Revised
4 Statutes, and repealing section 5 of P.L.2010, c.25.

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.

S2681 SARLO

- 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 promise,
23 made for monetary or other consideration, by the issuer or seller of
24 the record that the owner of the record will be provided, solely or a
25 combination of, merchandise, services, or cash in the value shown
26 in the record, which is pre-funded and the value of which is reduced
27 upon each redemption. The term "stored value card" includes, but
28 is not limited to the following items: paper gift certificates, records
29 that contain a microprocessor chip, magnetic stripe or other means
30 for the storage of information, gift cards, electronic gift cards,
31 rebate cards, stored-value cards or certificates, store cards, and
32 similar records or cards**】**.
33 (cf: P.L.2010, c.25, s.1)

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 **【three】** 15 years after its
39 issuance is presumed abandoned unless the owner, within **【three】**
40 15 years, has communicated in writing with the issuer concerning it
41 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.2010, c.25, s.2)

45
46 3. R.S.46:30B-12 is amended to read as follows:

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

9 (cf: P.L.2010, c.25, s.3)

10

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

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

26 (cf: P.L.2010, c.25, s.4)

27

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

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

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

1 6. R.S.46:30B-62 is amended to read as follows:
2 46:30B-62. Reimbursement of holder paying claim. A holder
3 who has paid money to the administrator pursuant to this chapter
4 may make payment to any person appearing to the holder to be
5 entitled to payment and, upon filing proof of payment and proof
6 that the payee was entitled thereto, the administrator shall promptly
7 reimburse the holder for the payment without imposing any fee or
8 other charge. If reimbursement is sought for a payment made on a
9 negotiable instrument, including a [stored value card,] travelers
10 check or money order, the holder shall be reimbursed under this
11 section upon filing proof that the instrument was duly presented and
12 that payment was made to a person who appeared to the holder to
13 be entitled to payment. The holder shall be reimbursed for payment
14 made under this section even if the payment was made to a person
15 whose claim was barred under R.S.46:30B-88.
16 (cf: P.L.2010, c.25, s.7)

17
18 7. (New section) a. Notwithstanding any other provisions of
19 law to the contrary, a money order sold after the effective date of
20 P.L.2007, c.326 (C.56:8-182 et seq.) shall retain full value until
21 presented for payment, or shall have all conditions and limitations,
22 as permitted in paragraphs (1) and (2) of this subsection, disclosed
23 to the purchaser of the money order at the time of purchase, as
24 provided in subsection b. of this section.

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

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

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

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

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

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

40
41 8. (New section) It shall be an unlawful practice and a
42 violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate the
43 provisions of section 7 of P.L. , c. (C.) (pending before
44 the Legislature as this bill).

45
46 9. (New section) The Director of the Division of Consumer
47 Affairs in the Department of Law and Public Safety shall
48 promulgate regulations pursuant to the "Administrative Procedure

1 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate sections 7
2 and 8 of P.L. , c. (C.) (pending before the Legislature as
3 this bill).

4

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

6

7 11. (New section) P.L. , c. (C.) (pending before the
8 Legislature as this bill) shall supersede the enactment of P.L.2010,
9 c.25. Notwithstanding any provision of the "Administrative
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
11 contrary, the State Treasurer may adopt immediately upon filing
12 with the Office of Administrative Law such regulations as the State
13 Treasurer deems necessary to implement the provisions of
14 P.L. , c. (C.) (pending before the Legislature as this bill)
15 and reimburse issuers and holders for all property which would not
16 have been reported but for P.L.2010, c.25, which regulations shall
17 be effective for a period not to exceed 180 days following the date
18 of enactment of P.L. , c. (C.) (pending before the
19 Legislature as this bill) and may thereafter be amended, adopted, or
20 readopted by the State Treasurer in accordance with the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.).

23

24 12. This act shall take effect immediately and sections 1 through
25 10 shall be retroactive to July 1, 2010.

26

27

28

STATEMENT

29

30 This bill reverses certain changes to the laws governing the
31 State's treatment of unclaimed property. The State's unclaimed
32 property laws provide for a system whereby certain types of
33 property which have gone unused for prescribed periods of time
34 accrue to the State and are treated as State revenue, though remain
35 subject to the rightful claim by the true owners.

36 As an ancillary component to the State fiscal year 2010-2011
37 budget proposal, the Governor proposed various revisions to
38 rationalize the State's statutory treatment of unclaimed property.
39 What ensued was a measure which aggressively shortened periods
40 of abandonment for money orders and travelers checks and created
41 a State claim on unused stored value cards. These changes have
42 caused significant uncertainty for consumers and businesses alike.

43 This bill reverses the 2010 changes to the State's unclaimed
44 property statutes. The bill removes all references and the operative
45 section for the State's claim on certain unused stored value cards.
46 The bill reenacts the 15 year abandonment period for travelers
47 checks and the seven year abandonment period for money orders,
48 both of which were recently changed to 3 years. The bill restores

S2681 SARLO

8

1 the previous statutory standard of unconscionability for limiting
2 service charges on travelers checks. The bill also restores the
3 statutory standard of unconscionability for limiting fees associated
4 with a failure to redeem a credit balance, customer overpayment,
5 security deposit, refund, credit memorandum, unused ticket, and
6 similar instruments. Additionally, the bill reenacts certain money
7 order specific consumer protections which had been otherwise
8 configured in statute by recent changes. Lastly, the bill grants the
9 State Treasurer emergency regulatory authority to implement this
10 act and to reimburse issuers and holders that reported unclaimed
11 property under the recent 2010 changes, which would not have been
12 due reportable otherwise.