

CHAPTER 35

AN ACT concerning the escheat of unclaimed property to the State, amending and supplementing chapter 30B of Title 46 of the Revised Statutes and repealing R.S.46:30B-35.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

Short title.

46:30B-1. Short title. This chapter shall be known and may be cited as the "Uniform Unclaimed Property Act."

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

Effect of chapter on duty of holder to report, pay and deliver property under prior law.

46:30B-4. Effect of chapter on duty of holder to report, pay and deliver property under prior law. This chapter does not relieve a holder of a duty that arose before the effective date of this chapter to report, pay, or deliver property. A holder who did not comply with the law in effect before the effective date of this chapter is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this section, subject to R.S.46:30B-89; however, after the effective date of this chapter, the interest and penalties set forth in article 34 of this chapter shall be assessed against the holder for failure to report, pay or deliver the property presumed abandoned in accordance with the prior statutory provisions.

3. R.S.46:30B-6 is amended to read as follows:

Definitions.

46:30B-6. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

k. "Owner" means a person having a legal or equitable interest in property subject to this chapter or the person's legal representative and includes, but is not limited to, a depositor in the

case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property;

l. "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity;

m. "State" means any state in the United States, district, commonwealth, territory, insular possession, or any other area subject to the jurisdiction of the United States;

n. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas;

o. "Mineral" means gas, oil, coal, other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, or any other substance defined as a mineral by the law of this State;

p. "Mineral proceeds" means amounts payable for the extraction, production, or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter, and includes, but is not limited to, amounts payable:

for the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;

for the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and

under an agreement of option, including a joint operating agreement, pooling agreement, and farm-out agreement;

q. "Money order" means an express money order and a personal money order, on which the remitter is the purchaser;

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

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

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

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

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

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

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

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

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

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

When property presumed abandoned generally.

46:30B-7. When property presumed abandoned generally. Except as otherwise provided by this chapter, all property, including any income or increment derived therefrom, less any lawful charges, whether located in this State or another state, that is held, issued, owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

At the time that an interest is presumed abandoned under this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed

abandoned, is also presumed abandoned.

5. R.S.46:30B-7.1 is amended to read as follows:

Communication between holder and apparent owner.

46:30B-7.1. Communication between holder and apparent owner. Property shall not be presumed abandoned if within the period that the property remains unclaimed the apparent owner communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning property or the account in which the property is held, or has otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner. An indication of an owner's interest in property includes:

the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account; or

the payment of a premium with respect to a property interest in an insurance policy.

The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

C.46:30B-7.2 Limitation on holder's power to impose charges.

6. Limitation on holder's power to impose charges. A holder may not deduct from the amount due a person who has a legal or equitable interest in any property subject to chapter 30 B of Title 46 of the Revised Statutes any charges due to dormancy or inactivity, unless:

there is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge; and

the holder regularly imposes charges and does not regularly reverse or otherwise cancel those charges with respect to the property, the amount of any charges is not unconscionable, and no additional charges are imposed as a result of escheatment of the property.

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

When property subject to custody.

46:30B-9. When property subject to custody. Unless otherwise provided in this chapter or by other statute of this State, property is subject to the custody of this State as unclaimed property if the conditions raising a presumption of abandonment under Articles 2 and 5 through 16 of this chapter are satisfied and the conditions under R.S.46:30B-10 are satisfied. The common law doctrine of bona vacantia shall remain viable with respect to unclaimed property not covered by this chapter or another statute of this State.

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

Further conditions to be satisfied to subject property to custody.

46:30B-10. Further conditions to be satisfied to subject property to custody. To subject property to the custody of this State as unclaimed property, the following conditions shall be also satisfied:

a. The last known address, as shown on the records of the holder, of the apparent owner is in this State;

b. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;

c. The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(1) The last known address of the person entitled to the property is in this State, or

(2) The holder is a domiciliary or a government or governmental subdivision or agency of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

d. The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this State;

e. The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this State; or

f. The transaction out of which the property arose occurred in this State, and

(1) The last known address of the apparent owner or other person entitled to the property is unknown, or

(2) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and

(3) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

C.46:30B-10.2 Presumption of abandonment after issuance.

9. Presumption of abandonment after issuance. A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that shall be established by the holder.

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

Presumption of abandonment of travelers check.

46:30B-11. Presumption of abandonment of travelers check. Subject to R.S.46:30B-14, any sum payable on a travelers check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the issuer.

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

Presumption of abandonment of money order.

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

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

Limitation on holder's power to impose service charges.

46:30B-13. Limitation on holder's power to impose service charges. A holder may not deduct from the amount of a travelers check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes the charges and does not regularly reverse or otherwise cancel them. The amount of the deduction shall be limited to an amount that is not unconscionable.

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

Presumption of abandonment.

46:30B-16. Presumption of abandonment. Any sum payable on a check, draft, or similar instrument, except those subject to R.S.46:30B-11 and R.S.46:30B-12, on which a financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable on demand, is presumed abandoned, unless the owner, within three years, has communicated in writing with the financial organization concerning it or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee thereof.

14. R.S.46:30B-17 is amended to read as follows:

Limitation on holder's power to impose charges.

46:30B-17. Limitation on holder's power to impose charges. A holder may not deduct from the amount of any instrument subject to R.S.46:30B-16 any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes the charges and does not regularly reverse or otherwise cancel them. The amount of the deduction shall be limited to an amount that is not unconscionable.

15. R.S.46:30B-18 is amended to read as follows:

Presumption of abandonment.

46:30B-18. Presumption of abandonment. A demand, savings, or time deposit, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual fund investment certificate, or any other interest in a financial organization is presumed abandoned three years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for the purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of renewal and the consent is in writing or is evidenced by a contemporaneous memorandum or other record on file with the holder, provided, however, that such abandonment shall not be deemed to have occurred if the owner, within the time period stated above has:

- a. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
- b. Communicated in writing with the financial organization concerning the property;
- c. Otherwise indicated an interest in the property as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the financial organization;
- d. Owned other property to which subsection a., b., or c. applies and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address to which communications regarding the other property regularly are sent; or
- e. Had another relationship with the financial organization concerning which the owner has:
 - (1) Communicated in writing with the financial organization, or
 - (2) Otherwise indicated an interest as evidenced by a contemporaneous memorandum or

other record on file prepared by an employee of the financial organization and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this section at the address to which communications regarding the other relationship regularly are sent.

16. R.S.46:30B-20 is amended to read as follows:

Limitation on holder's power to impose charges.

46:30B-20. Limitation on holder's power to impose charges. A holder may not impose with respect to property described in R.S.46:30B-18 any charge due to dormancy or inactivity or cease payment of interest unless:

a. There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;

b. For property in excess of \$2.00, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this subsection need not be given with respect to charges imposed or interest ceased before the effective date of this chapter; and

c. The holder regularly imposes the charges or ceases payment of interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property. The amount of the deduction shall be limited to an amount that is not unconscionable. Also, no additional charges shall be assessed as the result of escheatment of the property.

17. R.S.46:30B-21 is amended to read as follows:

When automatically renewable property is matured.

46:30B-21. When automatically renewable property is matured. Any property described in R.S.46:30B-18 that is automatically renewable is matured for purposes of R.S.46:30B-18 upon the expiration of its initial time period, but in the case of any renewal by communicating in writing with the financial organization or otherwise indicating consent as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in Article 19 of this chapter, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when a penalty or forfeiture would not result.

18. R.S.46:30B-22 is amended to read as follows:

Presumption of abandonment.

46:30B-22. Presumption of abandonment. Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than three years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection b. of R.S.46:30B-24 is presumed abandoned if unclaimed for more than two years.

19. R.S.46:30B-24 is amended to read as follows:

Determining maturity of insurance policy or annuity contract.

46:30B-24. Determining maturity of insurance policy or annuity contract. For purposes of this article, a life or endowment insurance policy or annuity contract not matured by actual proof of death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

a. The company knows that the insured or annuitant has died; or

b. The insured has attained, or would have attained if he were living, the limiting age under

the mortality table on which the reserve is based;

c. The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subsection b.; and

d. Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the company.

C.46:30B-28.1 Property distributable by insurance company.

20. Property distributable by insurance company. Property distributable in the course of demutualization or related reorganization of an insurance company which remains unclaimed is deemed abandoned three years after the earlier of:

the date of the distribution of the property; or
the date of last contact with a policyholder.

21. R.S.46:30B-31 is amended to read as follows:

Presumption of abandonment.

46:30B-31. Presumption of abandonment. Stock or other interest in a business association, including a debt obligation other than a bearer bond or original issue discount bond, is presumed abandoned:

three years after the earlier of the date of an unrepresented instrument issued to pay interest or a dividend or other cash distribution, or the date of issue of an undelivered stock certificate issued as a stock dividend, split, or other distribution; or

if a dividend or other distribution has not been paid on the stock or other interest for three consecutive years, or the stock or other interest is held pursuant to a plan that provides for the automatic reinvestment of dividends or other distributions, three years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable, or after the holder discontinued mailings to the apparent owner, whichever is earlier.

22. R.S.46:30B-32 is amended to read as follows:

Presumption of abandonment for failure to claim dividend or distribution.

46:30B-32. Presumption of abandonment for failure to claim dividend or distribution. At the expiration of a three- year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least three dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If three dividends, distributions, or other sums are paid during the three-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable.

23. R.S.46:30B-33 is amended to read as follows:

When period of abandonment ceases.

46:30B-33. When period of abandonment ceases. The running of the three-year period of abandonment ceases immediately upon the occurrence of a communication referred to in R.S.46:30B-31. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

24. R.S.46:30B-34 is amended to read as follows:

Items presumed abandoned when interest presumed abandoned.

46:30B-34. Items presumed abandoned when interest presumed abandoned. At the time an interest is presumed abandoned under chapter 30B of Title 46 of the Revised Statutes, any other property right accrued or accruing to the owners as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

25. R.S.46:30B-36 is amended to read as follows:

Presumption of abandonment.

46:30B-36. Presumption of abandonment. Property distributable in the course of a dissolution of a business association which remains unclaimed by the owner for more than one year after the date specified for final distribution is presumed abandoned.

26. R.S.46:30B-37 is amended to read as follows:

Presumption of abandonment.

46:30B-37. Presumption of abandonment. Property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within three years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by the fiduciary.

27. R.S.46:30B-37.1 is amended to read as follows:

Presumption of abandonment: unclaimed estate assets.

46:30B-37.1 Presumption of abandonment: unclaimed estate assets. Except as otherwise provided in this section, property held by a fiduciary as defined in N.J.S.3B:1-1 or an assignee under N.J.S.2A:19-1 et seq. and remaining unclaimed for 90 days after the account of that fiduciary or assignee is judicially allowed by the courts or settled informally is presumed abandoned. Unclaimed property held by a fiduciary of an intestate estate payable to the unknown heirs of an intestate decedent shall be presumed abandoned 90 days after publication by the fiduciary of the notice required in N.J.S.3B:5-5.

C.46:30B-37.2 Debt of business association.

28. Debt of business association. The debt of a business association, other than bearer bonds or an original issue discount bond, is presumed abandoned three years after the date of the earliest interest payment unclaimed by the apparent owner.

29. R.S.46:30B-38 is amended to read as follows:

Funds in retirement account or plan.

46:30B-38. Funds in retirement account or plan. Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States becomes abandoned three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

C.46:30B-38.1 Funds in non-traditional retirement account or plan.

30. Funds in non-traditional individual retirement account or plan. Property in individual retirement accounts for which no distribution is required under the income tax laws of the United States becomes abandoned three years after the date of the second mailing of a statement of

account or other notification or communication that was returned as undeliverable, or after the holder discontinued mailings to the apparent owner, whichever is earlier.

31. R.S.46:30B-41 is amended to read as follows:

Presumption of abandonment: Superior Court and surrogate.

46:30B-41. Presumption of abandonment: Superior Court and surrogate. Property deposited or paid into the Superior Court or to the surrogate of any county in this State to the credit of a specific cause or account under the provisions of any law, order, rule, judgment, or decree and remaining unclaimed for a period of 10 years, shall be presumed abandoned.

32. R.S.46:30B-41.1 is amended to read as follows:

Presumption of abandonment: minor's funds.

46:30B-41.1. Presumption of abandonment: minor's funds. Property deposited or paid into the Superior Court or to the surrogate of any county of this State for the benefit of a person who is a minor at the time of the deposit and remaining unclaimed by that person for two years after that person reaches majority is presumed abandoned.

33. R.S.46:30B-41.2 is amended to read as follows:

Presumption of abandonment: governmental entity.

46:30B-41.2. Presumption of abandonment: governmental entity. Except as otherwise provided in this article, any property where the obligor is the executive, legislative, or judicial branch of the United States Government, or a state, or a county or municipal subdivision of a state, or any of their authorities, agencies, instrumentalities, administrations, services or other organizations, and remaining unclaimed for more than one year after it became payable or distributable is presumed abandoned.

C.46:30B-41.3 Presumption of abandonment; class actions.

34. Presumption of abandonment; class actions. Property received by a court as proceeds of a class action and not distributed pursuant to the judgment is presumed abandoned one year after the initial distribution date.

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

Presumption of abandonment.

46:30B-42. Presumption of abandonment. A credit balance, customer overpayment, security deposit, refund, credit memorandum, unused ticket, or similar instrument that occurs or is issued in the ordinary course of business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.

36. R.S.46:30B-43 is amended to read as follows:

Amounts presumed abandoned.

46:30B-43. Amounts presumed abandoned. In the case of credit balances, customer overpayments, security deposits, refunds, credit memoranda, unused tickets, or similar instruments, the amount presumed abandoned is the amount credited to the recipient.

C.46:30B-43.1 Limitation on holder's power to impose charges.

37. Limitation on holder's power to impose charges. A holder may not deduct from the amount of any instrument subject to R.S.46:30B-43 any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes the charges and does not regularly reverse or otherwise

cancel them. The amount of the deduction shall be limited to an amount that is not unconscionable.

38. R.S.46:30B-47 is amended to read as follows:

Form and contents of report.

46:30B-47. Form and contents of report. The report shall be verified and shall include:

a. Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of \$50 or more presumed abandoned under this chapter. Dividends, interest and mineral proceeds that accrue shall not be aggregated and shall be reported separately;

b. In the case of unclaimed funds of \$50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

c. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property, its estimated value and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

d. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under \$50 each may be reported in the aggregate;

e. The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property;

f. The Social Security account number or federal identification number, if available, of each person appearing to be the owner of the reported unclaimed property; and

g. Other information the administrator prescribes by rule as necessary for the administration of this chapter.

39. R.S.46:30B-49 is amended to read as follows:

Time to file report; postponement.

46:30B-49. Time to file report; postponement. The report shall be filed before November 1 of each year as of the preceding June 30, but the report of any life insurance company shall be filed before May 1 of each year as of the preceding December 31.

Before the date for filing the report, the holder of property presumed abandoned may request of the administrator an extension of the time for filing the report. The administrator may grant the extension for good cause. The holder, upon receipt of the extension, shall make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the estimated amount paid.

40. R.S.46:30B-50 is amended to read as follows:

Notice to apparent owner.

46:30B-50. Notice to apparent owner. Not more than 120 days nor less than 60 days before filing the report required by this article, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send by certified mail, and with return receipt requested, written notice to the apparent owner at the last known address informing the owner that the holder is in possession of property subject to this chapter if:

a. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

b. The claim of the apparent owner is not barred by the statute of limitations; and

c. The property has a value of \$50.00 or more.

41. R.S.46:30B-51 is amended to read as follows:

Publication of notice by administrator.

46:30B-51. Publication of notice by administrator. The administrator shall cause a notice to be published not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the administrator, or in the case of property reported by life insurance companies, September 1, of the year in which abandoned property has been paid or delivered to the administrator following the report required by Article 17 of this chapter at least once a week for two consecutive weeks in a newspaper of general circulation in the county of this State in which is located the last known address of any person to be named in the notice. If the address is outside this State, the notice shall be published in the county in which the holder of the property has its principal place of business within this State.

The administrator is not required to advertise the name and address or location of an owner of property having a total value of less than \$100.

42. R.S.46:30B-52 is amended to read as follows:

Form and contents of notice to be published.

46:30B-52. Form and contents of notice to be published. The published notice shall contain:

a. The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as specified in R.S.46:30B-51;

b. A statement that information concerning the unclaimed property may be obtained by any person having legal or beneficial interest in that property by making a written inquiry to the administrator; and

c. A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator.

43. R.S.46:30B-53 is amended to read as follows:

Items which need not be included in published notice.

46:30B-53. Items which need not be included in published notice. The administrator is not required to publish in the notice any items of less than \$100 unless the administrator considers their publication to be in the public interest.

44. R.S.46:30B-57 is amended to read as follows:

Payment or delivery with report.

46:30B-57. Payment or delivery with report. At the time of the filing of the report as established by R.S.46:30B-49, a holder shall pay or deliver to the administrator all of the unclaimed property set forth in its report and all accretions thereon, except for the property provided for in R.S.46:30B-58.

Tangible property held in a safe deposit box or other safekeeping repository shall not be delivered to the administrator until 120 days after filing the report required by R.S.46:30B-47.

The administrator may decline to receive property reported under this chapter which the administrator considers to have value less than the expenses of notice and sale.

45. R.S.46:30B-60.1 is amended to read as follows:

Transfer of ownership after delivery with report.

46:30B-60.1. Transfer of ownership after delivery with report. When a certificate or other evidence of ownership, or a bond or other debt security, registered in the name of a person is delivered to the administrator pursuant to any provision of this chapter and is presented by the administrator to the issuer thereof or its agent, the issuer shall transfer and register it in the name of "Treasurer, State of New Jersey," and a new certificate or security, so registered, shall be delivered to the administrator. The issuer and its transfer agent, registrar, or other person acting

on behalf of the issuer in executing and delivering the certificate or security shall be fully and automatically relieved from any liability to any person for any loss or damage caused by the transfer, issuance, and delivery of the certificate or security to the administrator.

A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that shall be established by the holder.

If the property reported to the administrator is a security or security entitlement under Subchapter 8 of the Uniform Commercial Code-Investment Securities, N.J.S.12A:8-101 et seq., the administrator is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Subchapter 8 of the Uniform Commercial Code-Investment Securities.

If the holder of the property reported to the administrator is the issuer of a certified security, the administrator has the right to obtain a replacement certificate pursuant to N.J.S.12A:8-405 of the Uniform Commercial Code-Investment Securities, but an indemnity bond is not required.

An issuer, the holder, any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and shall be indemnified against claims of any person in accordance with R.S.46:30B-65.

46. R.S.46:30B-65 is amended to read as follows:

Defending and indemnifying holder against claims for property paid or delivered.

46:30B-65. Defending and indemnifying holder against claims for property paid or delivered. If the holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim to the extent of the property paid or delivered to the administrator on behalf of the apparent owner.

47. R.S.46:30B-72 is amended to read as follows:

Securities to be held one year before sale; rights of claimant if securities sold before or after end of one-year period.

46:30B-72. Securities to be held one year before sale; rights of claimant if securities sold before or after end of one-year period. Unless the administrator considers it to be in the best interest of the State to do otherwise, all securities presumed abandoned under Article 10 of this chapter and delivered to the administrator shall be held for one year before the administrator may sell them. If the administrator sells any securities delivered pursuant to Article 10 of this chapter before the expiration of the one-year period, any person making a claim pursuant to this chapter before the end of the one-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to R.S.46:30B-75. If the value of the securities is less than the cost of re-registration, then the owner shall have the option to pay the re-registration fee and receive the security or be paid the present value of the security. A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from sale, less any amounts deducted pursuant to R.S.46:30B-75, but no person has any claim under this chapter against the State, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

48. R.S.46:30B-76 is amended to read as follows:

Record to be maintained by administrator.

46:30B-76. Record to be maintained by administrator. Before making any deposit of funds as provided in R.S.46:30B-74, the administrator shall record the name and last known address of each person appearing from the holder's reports to be entitled to the property. However, the administrator shall not include in this record any information deemed confidential under R.S.46:30B-76.1. The record of the name and last known address only shall be available for the public inspection at all reasonable business hours.

49. R.S.46:30B-76.1 is amended to read as follows:

Confidentiality of certain records.

46:30B-76.1. Confidentiality of certain records. Any record or information other than name and address is deemed confidential when revealed or delivered to the administrator and shall not be considered a public record under section 2 of P.L.1963, c.73 (C.47:1A-2).

50. R.S.46:30B-76.2 is amended to read as follows:

Disclosure of confidential information.

46:30B-76.2. Disclosure of confidential information. Confidential information concerning any aspect of unclaimed property shall be disclosed only to an apparent owner or an administrator or official of another state for escheat or unclaimed or abandoned property, if that other state accords substantially reciprocal privileges to the administrator.

Documents and working papers may be:

used by the administrator in the course of an action to collect unclaimed property or otherwise enforce chapter 30B of Title 46 of the Revised Statutes;

used in joint examinations conducted with or pursuant to an agreement with another state, the federal government, or any other governmental subdivision, agency, or instrumentality;

produced pursuant to subpoena or court order; or

disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this section, if the state is bound to keep the documents and papers confidential.

51. R.S.46:30B-77 is amended to read as follows:

Filing claim; another state excluded.

46:30B-77. Filing claim; another state excluded. a. A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

b. The administrator shall allow the claim of persons asserting entitlement as heirs to the property of an intestate decedent paid or delivered to the administrator pursuant to N.J.S.3B:5-5 only upon receipt of (1) substantial credible evidence of heirship, (2) satisfactory evidence that a diligent investigation to locate all heirs of the decedent has been concluded, (3) the names, last known addresses, and a description of the relationships of all of the heirs of the decedent discovered as a result of that investigation, or otherwise, and (4) a release and refunding bond or other instrument satisfactory to the administrator, providing the administrator and the State with full indemnity for claims by other heirs of the decedent. The administrator shall make payment or delivery as otherwise provided in this article to the heirs in shares as prescribed in N.J.S.3B:5-3 through N.J.S.3B:5-14.

If the holder has filed an inaccurate or incomplete report and an owner makes a claim for the return of the property and the administrator is unable to determine if the property was reported or delivered, then the holder shall either file an amended accurate and complete report within 120 days of notice by the administrator or directly pay the owner and thereafter make a claim for reimbursement in accordance with R.S.46:30B-62. It shall be the holder's burden to establish

that the owner's property was delivered with the original report.

52. R.S.46:30B-78 is amended to read as follows:

Time to consider claim; notice of denial.

46:30B-78. Time to consider claim; notice of denial. The administrator shall consider each claim within 120 days after it is filed or, in the case of a claim of a person asserting an entitlement as an heir to the property of an intestate decedent, within 120 days of the claimant's submission of the matters (1) through (4) required in subsection b. of R.S.46:30B-77, and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If an address for notices is not stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. A notice of denial need not be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

53. R.S.46:30B-79 is amended to read as follows:

Payment of claim.

46:30B-79. Payment of claim. If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by Article 21 of this chapter. If the claim is for property presumed abandoned under Article 10 of this chapter which was sold by the administrator within one year after the date of delivery, the amount payable for that claim is the net proceeds of sale. At the time a claim is allowed, the administrator shall pay to the claimant interest upon the monies of the claimant for the period during which those monies were in the custody of the administrator, but interest shall not be payable for any period before the effective date of this chapter. The rate of interest shall be periodically fixed by the administrator.

54. R.S.46:30B-81 is amended to read as follows:

Grounds for recovery of property by another state.

46:30B-81. Grounds for recovery of property by another state. After property has been paid or delivered to the administrator under this chapter another state may recover the property if:

a. The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

b. The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property and under the laws of that state subsequently enacted the property has escheated to or become subject to a claim of abandonment by that state;

c. The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

d. The property was subjected to custody by this State under R.S.46:30B-1 et seq. and under the laws of the state of domicile of the holder of the property has escheated or become subject to a claim of abandonment by that state; or

e. The property is the sum payable on a travelers check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this state under R.S.46:30B-14, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state.

55. R.S.46:30B-82 is amended to read as follows:

Form of claim; allowance.

46:30B-82. Form of claim; allowance. The claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the administrator, who shall decide the claim within 120 days after it is presented. The administrator shall allow the claim if the administrator determines that the other state is entitled to the abandoned property under R.S.46:30B-81.

56. R.S.46:30B-89 is amended to read as follows:

Time within which administrator may bring action against holder.

46:30B-89. Time within which administrator may bring action against holder. An action or proceeding may not be commenced by the administrator to enforce chapter 30B of Title 46 of the Revised Statutes in regard to the reporting, delivery, or payment of property more than ten years after the holder specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

57. R.S.46:30B-90 is amended to read as follows:

Administrator may require filing of reports.

46:30B-90. Administrator may require filing of reports. The administrator may require any person who has not filed a report, or a person who the administrator believes has filed an inaccurate, incomplete, or false report, to file a verified report in a form specified by the administrator. The report shall state whether the person is holding property reportable under chapter 30B of Title 46 of the Revised Statutes, describe property not previously reported or as to which the administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

58. R.S.46:30B-91 is amended to read as follows:

Examination of records by administrator; generally.

46:30B-91. Examination of records by administrator; generally. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this chapter. The administrator may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this chapter. The administrator may contract with any other person to conduct the examination on behalf of the administrator.

59. R.S.46:30B-92 is amended to read as follows:

Examination of records by administrator; agents and fiduciaries for business association.

46:30B-92. Examination of records by administrator; agents and fiduciaries for business association. If a person is treated under Article 12 of this chapter as the holder of the property only insofar as the interest of a business association in the property is concerned, the administrator, pursuant to R.S.46:30B-91, may examine the records of the person if the administrator has given the notice required by R.S.46:30B-91 to both the person and the business association at least 90 days before the examination.

The administrator at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the administrator has given notice to both the association and the agent at least 90 days before the examination.

60. R.S.46:30B-93 is amended to read as follows:

Assessment of costs for examination.

46:30B-93. Assessment of costs for examination. If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, the administrator may assess the cost of the examination against the holder at the rate of \$50 per hour for each examiner, but in no case may the charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to R.S.46:30B-93 may be imposed only against the business association.

61. R.S.46:30B-94 is amended to read as follows:

Assessing estimated costs for examination when records are insufficient.

46:30B-94. Assessing estimated costs for examination when records are insufficient.

If, after the effective date of P.L.2002, c.35, a holder does not maintain the records required by R.S.46:30B-95 and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay to the administrator the amount the administrator reasonably estimates, on the basis of any available records of the holder, or by any other reasonable means of estimation acceptable to the administrator, that should have been but was not reported.

In the event property was delivered to the administrator based upon an estimate or statistical method, the holder shall be required to indemnify the administrator for any amounts claimed by owners in excess of the estimated amount remitted.

62. R.S.46:30B-95 is amended to read as follows:

Maintaining records; generally.

46:30B-95. Maintaining records; generally. Every holder required to file a report under Article 17 of this chapter, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for five years after the holder files the report, except to the extent that a shorter time is provided in R.S.46:30B-96 or by rule of the administrator.

63. R.S.46:30B-96 is amended to read as follows:

Maintaining records; travelers checks, money orders, etc.

46:30B-96. Maintaining records; travelers checks, money orders, etc. Any business association that sells in this State its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides those instruments to others for sale in this State, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the holder files the report.

64. R.S.46:30B-98 is amended to read as follows:

Interstate agreements.

46:30B-98. Interstate agreements. The administrator may enter into agreements with other states to exchange information relating to abandoned property or its possible existence needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized by R.S.46:30B-1 et seq. The administrator by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

65. R.S.46:30B-104 is amended to read as follows:

Penalty for failure to render report or perform other duties.

46:30B-104. Penalty for failure to render report or perform other duties. Except as otherwise provided in R.S.46:30B-105 or 46:30B-105.1, a holder who fails to report, pay or deliver property within the time prescribed by chapter 30B of Title 46 of the Revised Statutes, or fails to perform other duties imposed by that chapter, shall pay to the administrator, in addition to the interest as provided in R.S.46:30B-103, a civil penalty of \$200 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of \$100,000.

66. R.S.46:30B-105 is amended to read as follows:

Penalty for willful failure to report, pay or deliver property.

46:30B-105. Penalty for willful failure to report, pay or deliver property. A holder who willfully fails to report, pay, or deliver property within the time prescribed by chapter 30B of Title 46 of the Revised Statutes, shall pay to the administrator, in addition to the interest provided in R.S.46:30B-103, a penalty of \$1,000 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of \$250,000, plus 25% of the value of any property that should have been but was not reported.

For the purpose of this section, a willful failure to report includes the filing of a report which is plainly inaccurate, incomplete, or out of balance and the same is not corrected by the holder within six months after its original due date.

67. R.S.46:30B-105.1 is amended to read as follows:

Penalty for fraudulent report.

46:30B-105.1. Penalty for fraudulent report. A holder who makes a fraudulent report shall pay to the administrator, in addition to interest as provided in R.S.46:30B-103, a civil penalty of \$1,000 for each day the report is withheld up to a maximum of \$250,000, plus 25% of the value of any property that should have been but was not reported.

68. R.S.46:30B-14 is amended to read as follows:

Conditions subjecting property to custody of State.

46:30B-14. Conditions subjecting property to custody of State. A sum payable on a travelers check, money order, or similar written instrument, described in R.S.46:30B-11 and R.S.46:30B-12 may not be subjected to the custody of this State as unclaimed property unless:

a. The records of the issuer show that the travelers check, money order, or similar written instrument was purchased in this State;

b. The issuer has its principal place of business in this State and the records of the issuer do not show the state in which the travelers check, money order, or similar written instrument was purchased; or

c. The issuer has its principal place of business in this State, the records of the issuer show the state in which the travelers check, money order, or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

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

Presumption of abandonment.

46:30B-45. Presumption of abandonment. All property held in a safe deposit box or any other safekeeping repository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than five years after the lease or rental period or other custodial agreement on the box or other repository has expired, are presumed abandoned.

70. R.S.46:30B-46 is amended to read as follows:

Duty of holder to report property presumed abandoned.

46:30B-46. Duty of holder to report property presumed abandoned. A person holding property presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this article.

Repealer.

71. R.S.46:30B-35 is repealed.

Titles of articles amended.

72. Amend titles of Articles 5, 10 and 14 of R.S.46:30B-1 et seq. to read as follows:

Article 5. Checks, Drafts and Similar Instruments Issued or Certified by Financial Organizations

Article 10. Stock and other Interests in Business Associations

Article 14. Credits, Overpayments, Deposits, Refunds, Unused Tickets

73. Waiver of penalty and interest. The administrator shall have discretion to waive the payment of penalties and interest or to reduce the amount of the interest in an appropriate circumstance.

74. This act shall take effect immediately.

Approved July 1, 2002.