

CHAPTER 25

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

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

1. 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;

stored value card;

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;

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; and

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

2. 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 three years after its issuance is presumed abandoned unless the owner, within three 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.

3. 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 three years after its issuance is presumed abandoned unless the owner, within three 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.

4. 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 not to exceed \$2 per month. Notwithstanding any provision of this section to the contrary, no service charge, dormancy fee or other similar charge shall be imposed against a travelers check or money order within the twelve months immediately following the date of sale.

C.46:30B-42.1 Presumption of abandonment of stored value card.

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

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

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

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

- d. Nothing in this section shall be construed to prevent an issuer from honoring a stored value card, the unredeemed value of which has been reported to the State Treasurer pursuant

to R.S.46:30B-1 et seq., and thereafter seeking reimbursement from the State Treasurer pursuant to R.S.46:30B-62.

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

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

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

h. As used in this section:

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

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

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

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

37. Limitation on holder's power to impose charges. A holder of property subject to R.S.46:30B-42, section 5 of P.L.2010, c.25 (C.46:30B-42.1), and R.S.46:30B-43 shall not impose on the property a dormancy charge or fee, abandoned property charge or fee, unclaimed property charge or fee, escheat charge or fee, inactivity charge or fee, or any similar charge, fee or penalty for inactivity with respect to the property. Neither the property nor an agreement with respect to the property may contain language suggesting that the property may be subject to that kind of charge, fee or penalty for inactivity.

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

Reimbursement of holder paying claim.

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

Repealer.

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

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

Approved June 29, 2010.