

SENATE, No. 1962

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 17, 2012

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning unclaimed property, amending R.S.46:30B-11,
2 R.S.46:30B-12, P.L.2010, c.25, P.L.2002, c.35, and P.L.2002,
3 c.14, supplementing Title 46 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.46:30B-11 is amended to read as follows:
9 46:30B-11. Presumption of abandonment of travelers check.
10 Subject to R.S.46:30B-14, any sum payable on a travelers check
11 that has been outstanding for more than **[three]** 15 years after its
12 issuance is presumed abandoned unless the owner, within **[three]**
13 15 years, has communicated in writing with the issuer concerning it
14 or otherwise indicated an interest as evidenced by a
15 contemporaneous memorandum or other record on file prepared by
16 an employee of the issuer.
17 (cf: P.L.2010, c.25, s.2)

18
19 2. R.S.46:30B-12 is amended to read as follows:
20 46:30B-12. Presumption of abandonment of money order.
21 Subject to R.S.46:30B-14, any sum payable on a money order or
22 similar written instrument that has been outstanding for more than
23 **[three]** seven years after its issuance is presumed abandoned unless
24 the owner, within **[three]** seven years, has communicated in writing
25 with the issuer concerning it or otherwise indicated an interest as
26 evidenced by a contemporaneous memorandum or other record on
27 file prepared by an employee of the issuer.
28 (cf: P.L.2010, c.25, s.3)

29
30 3. Section 5 of P.L.2010, c.25 (C.46:30B-42.1) is amended to
31 read as follows:

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

34 Provided however, no stored value card issued on or after the
35 date of enactment of P.L. , c. (C.) (pending before the
36 Legislature as this bill) shall be subject to presumed abandonment
37 pursuant to this section or any other provisions of the Uniform
38 Unclaimed Property Act.

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

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

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

8 Provided however, no stored value card issued on or after the
9 date of enactment of P.L. , c. (C.) (pending before the
10 Legislature as this bill) shall be subject to this subsection.

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

16 e. **【This section】** Section 37 of P.L.2002, c.35 (C.46:30B-43.1)
17 does not apply to a stored value card that is distributed by the issuer
18 to a person under a promotional or customer loyalty program or a
19 charitable program for which no monetary or other consideration
20 has been tendered by the owner and **【this】** section 37 of P.L.2002,
21 c.35 (C.46:30B-43.1) does not apply to a stored value card issued
22 by any issuer that in the past year sold stored value cards with a
23 face value of \$250,000 or less. For purposes of this subsection,
24 sales of stored value cards by businesses that operate either (1)
25 under the same trade name as or under common ownership or
26 control with another business or businesses in the State, or (2) as
27 franchised outlets of a parent business, shall be considered sales by
28 a single issuer.

29 f. The State Treasurer is authorized to grant an exemption from
30 **【such provisions】** section 37 of P.L.2002, c.35 (C.46:30B-43.1)
31 concerning stored value cards, on such terms and conditions as the
32 State Treasurer may require, for a business or class of businesses
33 that demonstrate good cause to the satisfaction of the State
34 Treasurer. In exercising his discretion pursuant to this section, the
35 State Treasurer may consider relevant factors including, but not
36 limited to, the amount of stored value card transactions processed,
37 the technology in place, whether or not stored value cards issued
38 contain a microprocessor chip, magnetic strip, or other means
39 designed to trace and capture information about place and date of
40 purchase, and such other factors as the State Treasurer shall deem
41 relevant.

42 g. Notwithstanding the provisions of this act or any other law
43 to the contrary, for stored value cards subject to presumed
44 abandonment pursuant to this section or any other provisions of the
45 Uniform Unclaimed Property Act only a stored value card which is
46 exempt from the provisions of this act pursuant to subsection e. or f.
47 of this section shall be deemed a gift card or gift certificate for
48 purposes of P.L.2002, c.14 (C.56:8-110 et seq.).

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1 h. As used in this section:

2 "Stored value card activity" means the purchase or issuance of
3 the stored value card, a transaction executed by the owner that
4 increased or decreased the value of the stored value card, or
5 communication by the owner of the stored value card with the
6 issuer of the stored value card concerning the value of the balance
7 remaining on the stored value card as evidenced by a
8 contemporaneous record prepared by or on behalf of the issuer.

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

15 (cf: P.L.2010, c.25, s.5)

16

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

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

29 A stored value card issuer, as defined pursuant to section 5 of
30 P.L.2010, c.25 (C.46:30B-42.1) except as to the obligation to report
31 and deliver the proceeds of an abandoned stored value card, shall be
32 subject to the limits of this section. Provided however, the
33 application of this section is subject to the exemptions provided
34 pursuant to subsections e. and f. of section 5 of P.L.2010, c.25
35 (C.46:30B-42.1). If a stored value card is exempt from this section
36 pursuant to subsections e. and f. of section 5 of P.L.2010, c.25
37 (C.46:30B-42.1) the stored value card shall be subject to section 1
38 of P.L.2002, c.14 (C.56:8-110) as provided therein.

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

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41 5. Section 1 of P.L.2002, c.14 (C.56:8-110) is amended to read
42 as follows:

43 1. a. A gift certificate or gift card sold after the effective date
44 of this amendatory act shall retain full unused value until presented
45 in exchange for merchandise, or shall have any and all conditions
46 and limitations, as permitted in paragraphs (1) through (3) of this
47 subsection, disclosed to the purchaser of the gift certificate or gift

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1 card at the time of purchase as provided in subsection b. of this
2 section.

3 (1) In no case shall a gift certificate or gift card expire within
4 the 24 months immediately following the date of sale.

5 (2) No dormancy fee shall be charged against a gift certificate or
6 a gift card within the 24 months immediately following the date of
7 sale, nor shall one be charged within the 24 months immediately
8 following the most recent activity or transaction in which the
9 certificate or card was used.

10 (3) A dormancy fee charged against a gift certificate or gift card
11 as permitted by this subsection shall not exceed \$2.00 per month.

12 b. The terms of any expiration date or dormancy fee applicable
13 to a gift certificate or gift card, as permitted by subsection a. of this
14 section, shall be disclosed to a consumer by:

15 (1) written notice of the expiration date or dormancy fee or both
16 printed in at least 10 point font, on the gift certificate or gift card, or
17 the sales receipt for the certificate or card, or the package for the
18 certificate or card; and

19 (2) written notice, in at least 10 point font, on the gift certificate
20 or gift card, or the sales receipt for the certificate or card, or the
21 package for the certificate or card, of a telephone number which the
22 consumer may call, for information concerning any expiration date
23 or dormancy fee.

24 c. As used in this section:

25 "Dormancy fee" means a charge imposed against the unused
26 value of a gift card or gift certificate due to inactivity;

27 "Gift card" means a tangible device, whereon is embedded or
28 encoded in an electronic or other format a value issued in exchange
29 for payment, which promises to provide to the bearer merchandise
30 of equal value to the remaining balance of the device. "Gift card"
31 does not include a prepaid telecommunications or technology card,
32 prepaid bank card **[or]**, rewards card or stored value card subject to
33 section 37 of P.L.2002, c.35 (C.46:30B-43.1);

34 "Gift certificate" means a written promise given in exchange for
35 payment to provide merchandise in a specified amount or of equal
36 value to the bearer of the certificate. "Gift certificate" does not
37 include a prepaid telecommunications or technology card, prepaid
38 bank card **[or]**, rewards card or stored value card subject to section
39 37 of P.L.2002, c.35 (C.46:30B-43.1);

40 "Merchandise" means and includes any objects, wares, goods,
41 commodities, services or anything offered, directly or indirectly, to
42 the public for sale;

43 "Prepaid bank card" means a general use, prepaid card or other
44 electronic payment device that is issued by a bank or other financial
45 institution, or a licensed money transmitter, in a pre-denominated
46 amount usable at multiple, unaffiliated merchants or at automated
47 teller machines, or both, but shall not include a card issued by a
48 retail merchant;

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1 "Prepaid telecommunications or technology card" includes, but is
2 not limited to: a prepaid telephone calling card; prepaid technical
3 support card; or prepaid Internet disk distributed to or purchased by
4 a consumer; and

5 "Rewards card" means a card or certificate distributed by the
6 issuer to a consumer pursuant to an awards, loyalty, rewards or
7 promotional program, without any money or other consideration or
8 thing of value by the consumer in exchange for the card or
9 certificate.

10 (cf: P.L.2005, c.254, s.1)

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

24

25 7. This act shall take effect immediately and sections 1, 2, 3, 4,
26 and 5 shall apply to travelers checks, money orders and stored value
27 cards issued on or after the date of enactment.

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29

30 **STATEMENT**

31

32 The bill reverses the 2010 changes to the abandonment periods
33 for State escheatment of travelers checks, money orders, and stored
34 value cards (SVCs).

35 Escheatment is a process through which the State takes
36 possession of property that is deemed abandoned. Abandonment is
37 deemed to have occurred after a statutorily defined period of
38 inactivity has been satisfied. This period of inactivity is called an
39 abandonment period. After property is abandoned, the State then
40 holds the property as a trustee for the rightful owner to claim.

41 As an ancillary component to the State fiscal year 2011 budget,
42 the State enacted P.L.2010, c.25, which shortened abandonment
43 periods for money orders from seven to three years and for travelers
44 checks from 15 years to three years. P.L.2010, c.25 also authorized
45 the escheatment of unused SVCs, which includes gift cards and gift
46 certificates. P.L.2010, c.25 has been subject to extended litigation
47 due, perhaps mostly, to issues concerning timing and jurisdiction to
48 escheat.

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1 Prospectively, the bill reverses P.L.2010, c.25's shortened
2 abandonment periods for travelers checks and money orders, and
3 removes SVCs from the ranks of escheatable property. This means
4 that the bill: restores the 15 year abandonment period for travelers
5 checks issued on or after the date of enactment; restores the seven
6 year abandonment period for money orders issued on or after the
7 date of enactment; and prevents SVCs issued on or after the date of
8 enactment from being subject to escheat. Though the bill removes
9 SVCs from the ranks of escheatable property, the bill maintains the
10 absolute prohibition on SVC dormancy fees and expiration for
11 SVCs not otherwise exempted.

12 The bill grants the State Treasurer emergency regulatory
13 authority to implement the bill.