

# ASSEMBLY, No. 3250

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED SEPTEMBER 20, 2010

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblywomen Quigley, Tucker, Assemblymen Coutinho, Coughlin,  
Caputo, Prieto and Giblin**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/25/2011)**

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2

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

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-6 is amended to read as follows:  
9 46:30B-6. Definitions.

10 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

**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 k. "Owner" means a person having a legal or equitable interest  
2 in property subject to this chapter or the person's legal  
3 representative and includes, but is not limited to, a depositor in the  
4 case of a deposit, a beneficiary in the case of a trust other than a  
5 deposit in trust, and a creditor, claimant, or payee in the case of  
6 other property;
- 7 l. "Person" means an individual, business association, state or  
8 other government, governmental subdivision or agency, public  
9 corporation, public authority, estate, trust, two or more persons  
10 having a joint or common interest, or any other legal or commercial  
11 entity;
- 12 m. "State" means any state in the United States, district,  
13 commonwealth, territory, insular possession, or any other area  
14 subject to the jurisdiction of the United States;
- 15 n. "Utility" means a person who owns or operates for public  
16 use any plant, equipment, property, franchise, or license for the  
17 transmission of communications or the production, storage,  
18 transmission, sale, delivery, or furnishing of electricity, water,  
19 steam, or gas;
- 20 o. "Mineral" means gas, oil, coal, other gaseous, liquid and  
21 solid hydrocarbons, oil shale, cement material, sand and gravel,  
22 road material, building stone, chemical raw material, gemstone,  
23 fissionable and nonfissionable ores, colloidal and other clay, steam  
24 and other geothermal resources, or any other substance defined as a  
25 mineral by the law of this State;
- 26 p. "Mineral proceeds" means amounts payable for the  
27 extraction, production, or sale of minerals, or, upon the  
28 abandonment of those payments, all payments that become payable  
29 thereafter, and includes, but is not limited to, amounts payable:  
30 for the acquisition and retention of a mineral lease, including  
31 bonuses, royalties, compensatory royalties, shut-in royalties,  
32 minimum royalties, and delay rentals;  
33 for the extraction, production, or sale of minerals, including net  
34 revenue interests, royalties, overriding royalties, extraction  
35 payments, and production payments; and  
36 under an agreement of option, including a joint operating  
37 agreement, pooling agreement, and farm-out agreement;
- 38 q. "Money order" means an express money order and a  
39 personal money order, on which the remitter is the purchaser;
- 40 r. "Property" means tangible property described in  
41 R.S.46:30B-45 or a fixed and certain interest in intangible property  
42 that is held, issued, or owed in the course of a holder's business, or  
43 by a government, government subdivision, agency, or  
44 instrumentality, and all income or increments therefrom, and  
45 includes property that is referred to as or evidenced by:  
46 money, a check, draft, deposit, interest, or dividend;  
47 **[stored value card;]**

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

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

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

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

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

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

18 s. "Record" means information that is inscribed on a tangible  
19 medium or that is stored in an electronic or other medium and is  
20 retrievable in perceivable form<sup>1</sup>; and

21 t. "Stored value card" means a record that evidences a promise,  
22 made for monetary or other consideration, by the issuer or seller of  
23 the record that the owner of the record will be provided, solely or a  
24 combination of, merchandise, services, or cash in the value shown  
25 in the record, which is pre-funded and the value of which is reduced  
26 upon each redemption. The term "stored value card" includes, but  
27 is not limited to the following items: paper gift certificates, records  
28 that contain a microprocessor chip, magnetic stripe or other means  
29 for the storage of information, gift cards, electronic gift cards,  
30 rebate cards, stored-value cards or certificates, store cards, and  
31 similar records or cards<sup>2</sup>.

32 (cf: P.L.2010, c.25, s.1)

33

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

35 46:30B-11. Presumption of abandonment of travelers check.  
36 Subject to R.S.46:30B-14, any sum payable on a travelers check  
37 that has been outstanding for more than **[three]** 15 years after its  
38 issuance is presumed abandoned unless the owner, within **[three]**  
39 15 years, has communicated in writing with the issuer concerning it  
40 or otherwise indicated an interest as evidenced by a  
41 contemporaneous memorandum or other record on file prepared by  
42 an employee of the issuer.

43 (cf: P.L.2010, c.25, s.2)

44

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

46 46:30B-12. Presumption of abandonment of money order.  
47 Subject to R.S.46:30B-14, any sum payable on a money order or  
48 similar written instrument that has been outstanding for more than

1    **[three]** seven years after its issuance is presumed abandoned unless  
2    the owner, within **[three]** seven years, has communicated in writing  
3    with the issuer concerning it or otherwise indicated an interest as  
4    evidenced by a contemporaneous memorandum or other record on  
5    file prepared by an employee of the issuer.

6    (cf: P.L.2010, c.25, s.3)

7

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

9       46:30B-13. Limitation on holder's power to impose service  
10    charges. A holder may not deduct from the amount of a travelers  
11    check or money order any charge imposed by reason of the failure  
12    to present the instrument for payment unless there is a valid and  
13    enforceable written contract between the issuer and the owner of the  
14    instrument pursuant to which the issuer may impose a charge and  
15    the issuer regularly imposes the charges and does not regularly  
16    reverse or otherwise cancel them. The amount of the deduction  
17    shall be limited to an amount **[not to exceed \$2 per month.**  
18    Notwithstanding any provision of this section to the contrary, no  
19    service charge, dormancy fee or other similar charge shall be  
20    imposed against a travelers check or money order within the twelve  
21    months immediately following the date of sale] that is not  
22    unconscionable.

23    (cf: P.L.2010, c.25, s.4)

24

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

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

44    (cf: P.L.2010, c.25, s.6)

45

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

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

16  
17 7. (New section) a. Notwithstanding any other provisions of  
18 law to the contrary, a money order sold after the effective date of  
19 P.L.2007, c.326 (C.56:8-182 et seq.) shall retain full value until  
20 presented for payment, or shall have all conditions and limitations,  
21 as permitted in paragraphs (1) and (2) of this subsection, disclosed  
22 to the purchaser of the money order at the time of purchase, as  
23 provided in subsection b. of this section.

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

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

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

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

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

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

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

44  
45 9. (New section) The Director of the Division of Consumer  
46 Affairs in the Department of Law and Public Safety shall  
47 promulgate regulations pursuant to the "Administrative Procedure  
48 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate sections 7

1 and 8 of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill).

3

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

5

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

21

22 12. This act shall take effect immediately and sections 1 through  
23 10 shall be retroactive to July 1, 2010.

24

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#### STATEMENT

27

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

34

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

41

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

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