

[First Reprint]

ASSEMBLY, No. 1871

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

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Prieto, Giblin, Eustace and Assemblywoman Wagner**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 12, 2012, with amendments.



(Sponsorship Updated As Of: 3/16/2012)

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 12, 2012.

1 of the owner or purchaser.

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

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

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

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

1 of this section shall be deemed a gift card or gift certificate for
2 purposes of P.L.2002, c.14 (C.56:8-110 et seq.).

3 h. As used in this section:

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

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

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

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

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

31 A stored value card issuer, as defined pursuant to section 5 of
32 P.L.2010, c.25 (C.46:30B-42.1) except as to the obligation to report
33 and deliver the proceeds of an abandoned stored value card, shall be
34 subject to the limits '[on holder imposed charges]' of this section.
35 Provided however, the application of this section is subject to the
36 exemptions provided pursuant to subsections e. and f. of section 5
37 of P.L.2010, c.25 (C.46:30B-42.1). If a stored value card is
38 exempt from this section pursuant to subsections e. and f. of section
39 5 of P.L.2010, c.25 (C.46:30B-42.1) the stored value card shall be
40 subject to section 1 of P.L.2002, c.14 (C.56:8-110) as provided
41 therein.

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

43
44 5. Section 1 of P.L.2002, c.14 (C.56:8-110) is amended to read
45 as follows:

46 1. a. A gift certificate or gift card sold after the effective date
47 of this amendatory act shall retain full unused value until presented

1 in exchange for merchandise, or shall have any and all conditions
2 and limitations, as permitted in paragraphs (1) through (3) of this
3 subsection, disclosed to the purchaser of the gift certificate or gift
4 card at the time of purchase as provided in subsection b. of this
5 section.

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

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

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

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

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

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

27 c. As used in this section:

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

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

37 "Gift certificate" means a written promise given in exchange for
38 payment to provide merchandise in a specified amount or of equal
39 value to the bearer of the certificate. "Gift certificate" does not
40 include a prepaid telecommunications or technology card, prepaid
41 bank card **【or】**, rewards card or stored value card subject to section
42 37 of P.L.2002, c.35 (C.46:30B-43.1);

43 "Merchandise" means and includes any objects, wares, goods,
44 commodities, services or anything offered, directly or indirectly, to
45 the public for sale;

46 "Prepaid bank card" means a general use, prepaid card or other
47 electronic payment device that is issued by a bank or other financial

1 institution, or a licensed money transmitter, in a pre-denominated
2 amount usable at multiple, unaffiliated merchants or at automated
3 teller machines, or both, but shall not include a card issued by a
4 retail merchant;

5 "Prepaid telecommunications or technology card" includes, but is
6 not limited to: a prepaid telephone calling card; prepaid technical
7 support card; or prepaid Internet disk distributed to or purchased by
8 a consumer; and

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

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

15

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

28

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