

SENATE SUBSTITUTE FOR
SENATE, No. 1928

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED JUNE 21, 2012

Sponsored by:

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District 36 (Bergen and Passaic)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Assemblyman PATRICK J. DIEGNAN, JR.

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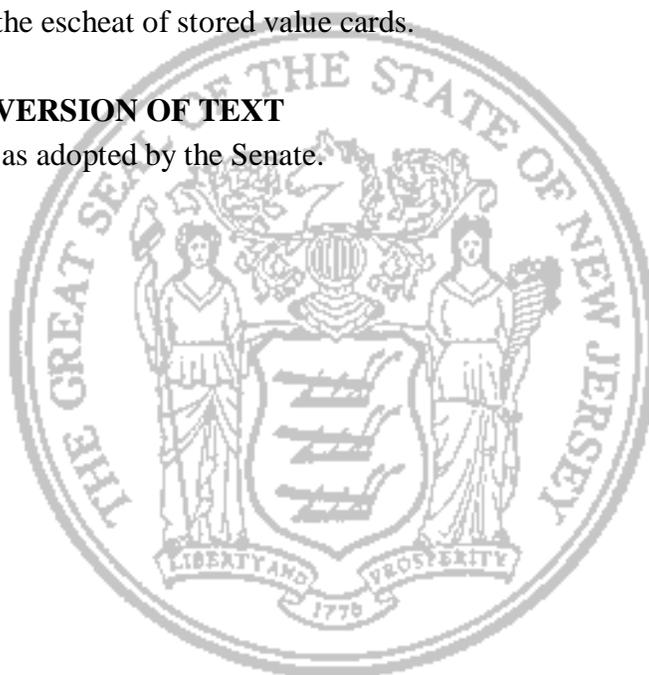
Senators Turner, Greenstein, Oroho, Ruiz and Assemblywoman Sumter

SYNOPSIS

Concerns the escheat of stored value cards.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



(Sponsorship Updated As Of: 6/26/2012)

1 AN ACT concerning stored value cards, amending P.L.2010, c.25
2 and P.L.2002, c.14 and supplementing chapter 30B of Title 46 of
3 the Revised Statutes.

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

7
8 1. Section 5 of P.L.2010, c.25 (C.46:30B-42.1) is amended to
9 read as follows:

10 5. a. A stored value card for which there has been no stored
11 value card activity for **[two]** five years is presumed abandoned.
12 This subsection shall apply to any stored value card issued on or
13 after July 1, 2010.

14 b. The proceeds of a **[stored value]** general purpose reloadable
15 card presumed abandoned shall be the value of the card, in money,
16 on the date the **[stored value]** general purpose reloadable card is
17 presumed abandoned. The proceeds of all other stored value cards
18 presumed abandoned shall be 60% of the value of the card, in
19 money, on the date the stored value card is presumed abandoned.

20 c. **[An]** Beginning the first day of the 49th month following
21 the date of enactment of P.L. . c. (pending before the
22 Legislature as this bill), an issuer of a stored value card shall obtain
23 the name and address of the purchaser or owner of each stored value
24 card issued or sold and shall, at a minimum, maintain a record of
25 the zip code of the owner or purchaser.

26 **[If the issuer of a stored value card does not have the name and**
27 **address of the purchaser or owner of the stored value card, the**
28 **address of the owner or purchaser of the stored value card shall**
29 **assume the address of the place where the stored value card was**
30 **purchased or issued and shall be reported to New Jersey if the place**
31 **of business where the stored value card was sold or issued is located**
32 **in New Jersey.]**

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

38 e. This section does not apply to:
39 (1) a stored value card that is distributed by the issuer, directly or
40 indirectly, to a person under a promotional, incentive, rewards, or
41 customer loyalty program or a charitable program for which no
42 direct monetary [or other] consideration [has been tendered by the
43 owner and this section does not apply to] is paid by the owner;

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 (2) a stored value card that is donated or sold below face value to
2 a nonprofit or charitable organization or an educational
3 organization;

4 (3) a stored value card that is redeemable for admission to events
5 or venues at a particular location or group of affiliated locations, or
6 for goods or services in conjunction with admission to those events
7 or venues, or both, at the event or venue or at specific locations
8 affiliated with and in geographic proximity to the event or venue;
9 and

10 (4) a stored value card issued by any issuer that in the past year
11 sold stored value cards with a face value of \$250,000 or less. For
12 purposes of this subsection, sales of stored value cards by
13 businesses that operate either (1) under the same trade name as or
14 under common ownership or control with another business or
15 businesses in the State, or (2) as franchised outlets of a parent
16 business, shall be considered sales by a single issuer.

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

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

34 h. Beginning September 1, 2012 if a stored value card is
35 redeemed and a balance of less than \$5 remains on the card after
36 redemption, at the owner's request the merchant or other entity
37 redeeming the card shall refund the balance in cash to the owner.

38 A merchant or other entity required to comply with the
39 provisions of this subsection shall be liable to a penalty of \$500 for
40 each violation plus restitution of the amount of the cash value
41 remaining on the stored value card, provided however that the
42 amount of the penalty shall be trebled for an aggregate of 100 such
43 violations occurring during any 12 month period. Failure to provide
44 requested cash redemption for each stored value card shall be
45 considered a separate violation. Upon receiving evidence of any
46 violation of the provisions of this subsection, the Director of the
47 Division of Consumer Affairs, or the director's designee, is

1 empowered to hold hearings upon those violations and upon finding
2 the violation to have been committed, to assess a penalty against the
3 person alleged to have committed the violation in the amounts
4 provided in this subsection. The director shall thereafter return to
5 the owner of the card the amount of the cash value remaining on the
6 card recovered under this subsection, and this shall be the sole
7 remedy available to the owner for those violations.

8 This subsection does not impose on an issuer or merchant or
9 other entity required to comply with the provisions of this
10 subsection an obligation to advertise the availability of a refund
11 balance redemption. Notwithstanding the foregoing or any
12 provision in section 2 of P.L.1981, c.454 (C.56:12-16), an issuer,
13 seller or redeemer of stored value cards may elect to include a
14 disclosure or may, in the alternative, include a statement on the
15 stored value card or other marketing materials that the card “is not
16 redeemable for cash except as required by law” or similar
17 statement.

18 This subsection shall not apply to (1) a non-reloadable stored
19 value card with an initial value of \$5 or less; or (2) a stored value
20 card that is not purchased but is provided in lieu of a refund for
21 returned merchandise; or (3) a stored value card that can be
22 redeemed at multiple merchants that are not under common
23 ownership or control, including but not limited to network-branded
24 stored value cards.

25 i. The funds associated with a stored value card sold on or after
26 December 1, 2012 shall be valid until redemption and shall not
27 expire. However, a stored value card may contain an expiration
28 date to the extent permitted by federal law that applies only to the
29 card or other tangible medium through which the underlying funds
30 can be accessed, provided those underlying funds do not expire.

31 j. For stored value cards sold on or after December 1, 2012, in
32 addition to the requirements of section 37 of P.L.2002, c.35
33 (C.46:30B-43.1), no fees or charges shall be imposed on a stored
34 value card except that the issuer may charge (1) an activation,
35 issuance, purchase or similar fee related to the issuance and
36 purchase of a stored value card and for each occurrence of adding
37 value to an existing stored value card; and (2) a replacement card
38 fee with respect to lost, stolen or damaged stored value cards
39 provided that these fees are disclosed in writing prior to issuance or
40 referenced on the stored value card or the stored value card
41 packaging. The State Treasurer may adopt regulations regarding
42 the establishment of activation, issuance, purchase or similar fees,
43 fees for adding value to an existing stored value card, and
44 replacement card fees.

45 A general purpose reloadable card shall not be subject to the
46 provisions of this subsection.

47 k. As used in this section:

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

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

14 "General purpose reloadable card" means a stored value card
15 issued by a bank or other similarly regulated financial institution or
16 by a licensed money transmitter that is (1) usable and honored upon
17 presentation at multiple merchants or service providers that are not
18 under common ownership or control for goods or services or at
19 automated teller machines, (2) issued in a requested prepaid amount
20 which amount may be, at the option of the issuer, increased in value
21 or reloaded if requested by the cardholder, and (3) not marketed or
22 labeled as a gift card; the term "reloadable card" includes a
23 temporary non-reloadable card issued solely in connection with a
24 reloadable card.

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

26
27 2. Section 1 of P.L.2002, c.14 (C.56:8-110) is amended to read
28 as follows:

29 1. a. A gift certificate or gift card sold after the effective date
30 of this amendatory act shall retain full unused value until presented
31 in exchange for merchandise, or shall have any and all conditions
32 and limitations, as permitted in paragraphs (1) through (3) of this
33 subsection, disclosed to the purchaser of the gift certificate or gift
34 card at the time of purchase as provided in subsection b. of this
35 section.

36 (1) In no case shall the underlying funds associated with a gift
37 certificate or gift card expire within the 24 months immediately
38 following the date of sale.

39 (2) No dormancy fee shall be charged against a gift certificate or
40 a gift card within the 24 months immediately following the date of
41 sale, nor shall one be charged within the 24 months immediately
42 following the most recent activity or transaction in which the
43 certificate or card was used.

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

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

4 (1) written notice of the expiration date or dormancy fee or both
5 printed in at least 10 point font, on the gift certificate or gift card, or
6 the sales receipt for the certificate or card, or the package for the
7 certificate or card; and

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

13 c. Beginning September 1, 2012 if a stored value card deemed
14 a gift card or gift certificate pursuant to section 5 of P.L.2010, c.25
15 (C.46:30B-42.1) is redeemed and a balance of less than \$5 remains
16 on the card after redemption, at the owner's request the merchant or
17 other entity redeeming the card shall refund the balance in cash to
18 the owner.

19 A merchant or other entity required to comply with the
20 provisions of this subsection shall be liable to a penalty of \$500 for
21 each violation plus restitution of the amount of the cash value
22 remaining on the stored value card, provided however that the
23 amount of the penalty shall be trebled for an aggregate of 100 such
24 violations occurring during any 12 month period. Failure to provide
25 requested cash redemption for each stored value card shall be
26 considered a separate violation. Upon receiving evidence of any
27 violation of the provisions of this subsection, the Director of the
28 Division of Consumer Affairs, or the director's designee, is
29 empowered to hold hearings upon those violations and upon finding
30 the violation to have been committed, to assess a penalty against the
31 person alleged to have committed the violation in the amounts
32 provided in this subsection. The director shall thereafter return to
33 the owner of the card the amount of the cash value remaining on the
34 card recovered under this subsection, and this shall be the sole
35 remedy available to the owner for those violations.

36 This subsection does not impose on an issuer or merchant or
37 other entity required to comply with the provisions of this
38 subsection an obligation to advertise the availability of a refund
39 balance redemption. Notwithstanding the foregoing or any
40 provision in section 2 of P.L.1981, c.454 (C.56:12-16), an issuer,
41 seller or redeemer of stored value cards may elect to include a
42 disclosure or may, in the alternative, include a statement on the
43 stored value card or other marketing materials that the card "is not
44 redeemable for cash except as required by law" or similar
45 statement.

46 This subsection shall not apply to (1) a non-reloadable stored
47 value card with an initial value of \$5 or less; or (2) a stored value

1 card that is not purchased but is provided in lieu of a refund for
2 returned merchandise; or (3) a stored value card that can be
3 redeemed at multiple merchants that are not under common
4 ownership or control, including but not limited to network-branded
5 stored value cards; or (4) a rewards card; or (5) a stored value card
6 that is donated or sold below face value to a nonprofit or charitable
7 organization or an educational organization; or (6) a stored value
8 card that is redeemable for admission to events or venues at a
9 particular location or group of affiliated locations, or for goods or
10 services in conjunction with admission to those events or venues, or
11 both, at the event or venue or at specific locations affiliated with
12 and in geographic proximity to the event or venue.

13 d. As used in this section:

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

16 "Gift card" means a tangible device, whereon is embedded or
17 encoded in an electronic or other format a value issued in exchange
18 for payment, which promises to provide to the bearer merchandise
19 of equal value to the remaining balance of the device. "Gift card"
20 does not include a prepaid telecommunications or technology card,
21 prepaid bank card or rewards card;

22 "Gift certificate" means a written promise given in exchange for
23 payment to provide merchandise in a specified amount or of equal
24 value to the bearer of the certificate. "Gift certificate" does not
25 include a prepaid telecommunications or technology card, prepaid
26 bank card or rewards card;

27 "Merchandise" means and includes any objects, wares, goods,
28 commodities, services or anything offered, directly or indirectly, to
29 the public for sale;

30 "Prepaid bank card" means a general use, prepaid card or other
31 electronic payment device that is issued by a bank or other financial
32 institution, or a licensed money transmitter, in a pre-denominated
33 amount usable at multiple, unaffiliated merchants or at automated
34 teller machines, or both, but shall not include a card issued by a
35 retail merchant;

36 "Prepaid telecommunications or technology card" includes, but is
37 not limited to: a prepaid telephone calling card; prepaid technical
38 support card; or prepaid Internet disk distributed to or purchased by
39 a consumer; and

40 "Rewards card" means a card or certificate distributed by the
41 issuer to a consumer pursuant to an awards, loyalty, rewards or
42 promotional program, without any money or other consideration or
43 thing of value by the consumer in exchange for the card or
44 certificate.

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

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

13

14 4. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This substitute bill makes a number of changes to the "Uniform
20 Unclaimed Property Act" with respect to stored value cards.

21 The substitute extends the period for which there has been no
22 activity in order for a stored value card to be presumed abandoned
23 from two to five years and would apply to all stored value cards
24 issued on or after July 1, 2010.

25 The substitute provides that the proceeds of a general purpose
26 reloadable card stored value card presumed abandoned shall be the
27 value of the card, in money, on the date the general purpose
28 reloadable card is presumed abandoned. The proceeds of any other
29 stored value card presumed abandoned shall be 60% of the value of
30 the card, in money, on the date the stored value card is presumed
31 abandoned.

32 The substitute provides that beginning September 1, 2012 if a
33 stored value card is redeemed and a balance of less than \$5 remains
34 on the card after redemption, at the owner's request, the merchant
35 or other entity redeeming the card must refund the balance in cash
36 to the owner. Any merchant or other entity required to comply with
37 the provisions of this subsection will be liable to a penalty of \$500
38 for each violation plus restitution of the amount of the cash value
39 remaining on the stored value card, provided however that the
40 amount of the penalty shall be trebled for an aggregate of 100 such
41 violations occurring during any 12 month period. The substitute
42 authorizes the Director of the Division of Consumer Affairs to hold
43 hearings related to violations, and upon finding a violation to have
44 been committed to assess a penalty against the person alleged to
45 have committed the violation. The substitute provides that the
46 penalty established in the substitute shall be the sole remedy
47 available to the owner for a violation.

1 The substitute further provides that funds associated with a
2 stored value card sold on or after December 1, 2012 shall be valid
3 until redemption and shall not expire.

4 The substitute provides that no fees or charges shall be imposed
5 on a stored value card that is sold on or after December 1, 2012,
6 except that the issuer may charge (1) an activation, issuance,
7 purchase or similar fee related to the issuance and purchase of a
8 stored value card and for each occurrence of adding value to an
9 existing stored value card; and (2) a replacement card fee with
10 respect to lost, stolen or damaged stored value cards provided that
11 these fees are disclosed in writing prior to issuance or referenced on
12 the stored value card or the stored value card packaging. The
13 substitute authorizes the State Treasurer to adopt regulations
14 regarding the establishment of activation, issuance, purchase or
15 similar fees, fees for adding value to an existing stored value card
16 and replacement card fees.

17 The substitute bill delays until the first day of the 49th month
18 following enactment of the substitute the requirement that the issuer
19 of a stored value card obtain, and maintain a record, of the name
20 and address, or at minimum, the zip code, of the purchaser or owner
21 for each stored value card.

22 The substitute bill also exempts from the “Uniform Unclaimed
23 Property Act” a stored value card that is donated or sold below face
24 value to a nonprofit or charitable organization or an educational
25 organization and a stored value card that is redeemable for
26 admission to events or venues at a particular location or group of
27 affiliated locations, and goods or services in conjunction with
28 admission to such events or venues, or both, at the event or venue
29 or at specific locations affiliated with and in geographic proximity
30 to the event or venue.