

Title 18, Chapter 13 -- Chapter Notes

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2006 d.222, effective May 24, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

CHAPTER EXPIRATION DATE:

Chapter 13, Unclaimed Personal Property, expires on May 24, 2011.

CHAPTER HISTORICAL NOTE:

Chapter 13, Unclaimed Personal Property, was adopted as R.1995 d.563, effective November 6, 1995. See: 27 N.J.R. 1962(a), 27 N.J.R. 4445(b). Pursuant to Executive Order No. 66(1978), Chapter 13 expired on November 6, 2000.

Chapter 13, Unclaimed Personal Property, was adopted as new rules by R.2000 d.499, effective December 18, 2000. See: 32 N.J.R. 3751(b), 32 N.J.R. 4451(b).

Administrative correction. See: 33 N.J.R. 568(c).

Subchapter 2, Time Deposits, and Subchapter 3, Payment of Claim by Administrator, were adopted as new rules by R.2004 d.65, effective February 17, 2004. See: 35 N.J.R. 4217(a), 36 N.J.R. 1029(a).

Chapter 13, Unclaimed Personal Property was readopted by R.2006 d.222, effective May 24, 2006. Former Subchapter 3, Payment of Claim by Administrator, was recodified as Subchapter 4 and Subchapter 3, Dormancy Fees, was adopted as new rules by R.2006 d.222, effective June 19, 2006. See: Source and Effective Date. See, also, section annotations.

§ 18:13-1.1 Declaration of policy

(a) All abandoned safe deposit boxes and other safekeeping repositories shall be individually reported regardless of content value.

1. Contents of some commercial value or insubstantial commercial value shall be detailed pursuant to N.J.S.A. 17:14A-51 and pursuant to N.J.S.A. 46:30B-46 through 50 and these rules.

2. For the purposes of the report requirements, items of insubstantial commercial value, may be grouped under the heading "Insubstantial Commercial Value" and need not be individually listed for each safekeeping unit.

(b) Each safe deposit box or other safekeeping repository will stand alone with regard to assets therein, lien charges, sale expenses and sale proceeds.

1. If a sale is held, the holder may not add together all proceeds from all boxes or repositories and from that total of proceeds retain or be reimbursed for all the lien charges and sale expenses due on all the boxes or repositories. Each box must be accounted for separately, in all respects.

2. Safe deposit box or repository charges shall only be reimbursed, pursuant to N.J.S.A. 46:30B-67, if the items are sold at auction and there are funds available after the State's administrative costs have been satisfied. These charges shall be documented on the report for each owner with supporting evidence held for future audit. If the owner claims the contents prior to sale, the claimant shall receive the contents without charge.

(c) The holder is required to report electronically to the State, consistent with the State format for reporting safe deposit box or other safekeeping repository records (see 18:13-1.3). The electronic format to be used shall be that which is approved by the Administrator.

(d) The State Treasurer will generally not assume custody of property prior to the presumption of abandonment.

(e) Upon presumption of abandonment, the holder shall file the required report pursuant to N.J.S.A. 46:30B-46 through 50 and this chapter, using the State approved format, State form UP-1 or approved substitute form.

1. If a sale has been held, the excess proceeds must accompany the report.

2. The State will notify the holder via written or oral communication within 120 days of the report, of acceptance or constructive delivery (see 18:13-1.6) or of its intent to inspect any tangible property.

(f) The Unclaimed Property Operations Branch shall not accept deliveries of safekeeping contents by mail or in person from holders. A representative of the Unclaimed Property Operations Branch shall review each report at the holder's location to assure that the reported inventory is consistent with the delivery. All delivery arrangements shall be made by the Unclaimed Property Operations Branch.

HISTORY:

Amended by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

In (c), substituted "The" for "If the" and "is required" for "chooses", inserted "to" following "electronically", deleted "will require that the format be" preceding "consistent" substituted "see" for ". See", moved the period following the N.J.A.C. reference to outside the closing parenthesis and added the last sentence; and substituted "written or oral communication" for "letter" in (e)2.

Chapter Notes

§ 18:13-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"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 the authority to administer the provisions of N.J.S.A. 46:30B-1 et seq. and to execute any pertinent documents.

"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.

"Constructive delivery" means unclaimed property which has been set apart and report of such received and accepted by the State without real transfer or a true conferring of real possession of the property by the holder.

1. This term includes all those acts which have been held by construction of law to be equivalent to acts of real delivery.

2. The conduct of the holder and State shall be such as to be consistent with the presumption that there has been a change in holder.

3. The date on which constructive delivery becomes effective is the postmarked date on the State's letter of acceptance to the holder required under 18:13-1.1(e)2.

"Good faith" means that payment or delivery was made in a reasonable attempt to comply with this chapter; that the person delivering or performing constructive delivery of the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to him or her, that the property was abandoned for the purpose of this chapter; and there is no showing that the records pursuant to which the delivery was made did not meet the reasonable commercial standards of practice in the industry.

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

"Holder's right to reimbursement" means that a holder has the right to be reimbursed from the proceeds of the sale of the contents of a safe deposit box or other safekeeping repository for lien charges and sale expenses.

1. If the sale is conducted by the State Treasurer, the State's sale expenses will be deducted from the proceeds prior to any reimbursement to the holder.

"Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

"Lien charges" means the amount due to the holder for rental to the time of removal of contents, and costs of opening, repairing, and restoration.

"Owner" means a person, or the owner's legal representative, who is renting or leasing a safe deposit

box, or other safekeeping repository, or otherwise has a legal or equitable interest in property subject to this chapter 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.

"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.

"Presumption of abandonment" means safe deposit box contents or other safekeeping repository contents are presumed abandoned if unclaimed by the owner for more than five years after the expiration of the lease, rental period, or other custodial agreement. (N.J.S.A. 46:30B-45).

"Safe" means a place for the storage and safekeeping of personal property.

"Safe deposit box" means vaults, boxes and receptacles used for the safekeeping of personal property, whether in a safe deposit company, bank, savings and loan association, or other safekeeping repository.

"Safe deposit company" means a corporation organized for the purpose of keeping, maintaining and renting to depositors safe deposit boxes for the safekeeping of personal property.

1. Depositors have exclusive access to the boxes, subject to the oversight and under the rules and regulations of the company.

"Sale expenses" are costs associated with a public auction, due to the holder if held pursuant to N.J.S.A. 17:14A-51 or due to the State if held under N.J.S.A. 46:30-69 and 72.1.

"State" means any state in the United States, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

"Tangible" property includes property having actual form and substance with intrinsic value which is able to be appraised for value. Examples of tangible property are jewelry, works of art, Silver Certificate Notes and rare coins.

"Repository" is a storeroom where things are placed for safekeeping.

HISTORY:

Amended by R.2004 d.65, effective February 17, 2004.

See: 35 New Jersey Register 4217(a), 36 New Jersey Register 1029(a).

Rewrote "Holder".

Chapter Notes

§ 18:13-1.3 Reporting

(a) The safe deposit box holder shall be sent a notification each year prior to August 1 detailing any changes in reporting requirements and giving instructions on how to download the safekeeping diskette report from the Internet or the phone number to call in order to receive a paper copy of the reporting form. The safekeeping diskette report must be used, whether downloaded from the Internet or obtained as a paper copy.

1. Instructions as to how to report will be posted on the Unclaimed Property Operations Branch's website and mailed upon request. The web address is <http://www.state.nj.us/treasury/taxation/>. All holders shall record an owner's name, associated address, and social security number.

(b) In the event that the contents of an individual box are valued at less than \$ 25.00 the holder shall report the name and last known address, N.J.S.A. 46:30-47d notwithstanding.

(c) Each owner's property shall be maintained and reported separately. Property of different owners shall not be intermingled.

(d) Cash, consisting of coins or currency, must be maintained in its original form and not commingled with the cash of other owners. It must not be converted to any other cash instruments until the box has been inspected by Unclaimed Property Operations Branch personnel. The State at that time will require the cash determined to be worth face value to be added and the total cash amount be converted by the safe deposit box holder to a check instrument payable to "Treasurer, State of New Jersey." The cash funds are to be reported by the owner and deposited into the Unclaimed Personal Property Trust Fund. Cash in a safe deposit box is not to be confiscated by the holder for reimbursement.

HISTORY:

Amended by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

In (a), inserted "safekeeping diskette" preceding "report" and added the last sentence; and rewrote (d).

Chapter Notes

§ 18:13-1.4 Estimation of value

(a) The holder shall report to the administrator the nature and identifying number, if any, or description of the property item and the actual/appraised/estimated value.

1. Only "worthless" items may be reported in the aggregate. A statement that there were various "worthless" items may be included.

i. "Worthless" items are items of insubstantial commercial value including, but not limited to, personal letters, food items (of any type), clothing (exclusive of furs), dentures/eyeglasses, personal prosthetic devices, trinkets--inexpensive ashtrays/paperweights, High School/College textbooks, notebooks--with/without personal writing, personal snapshots/pictures, newspapers/magazines, personal documents/ certificates/diplomas, receipts -- gas/electric/telephone/rent, Training Manuals (any profession), paperback books, and paper clips/elastic bands.

2. Where the value of the property requires an appraisal and for items whose value is not easily estimated, the estimated value made for the notarized certificate issued at the time that the safe deposit box is opened or other safekeeping repository unit is inventoried is the estimated value for reporting purposes.

3. However, at the time of sale by New Jersey, if for any item the estimate or appraisal made when the box was opened or other safekeeping unit is inventoried may be out of date, the administrator may obtain a current valuation from an independent appraiser.

Chapter Notes

§ 18:13-1.5 Reporting multiple boxes or repositories of worthless items

(a) Multiple boxes or repositories of "worthless" items shall be reported individually.

1. In the event one person owns two or more boxes or repositories the aggregate value of which is \$ 25.00 or more, even though the contents of each individual box or repository are valued at less than \$ 25.00, the holder shall report the name and last known address of the owner pursuant to N.J.S.A. 46:30B-47(a).

HISTORY:

Amended by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

Section was "Reporting multiple or repositories of worthless items".

Chapter Notes

§ 18:13-1.6 Alternate disposition and indemnification of holder upon election of administrator not to receive the property

(a) A representative of the Unclaimed Property Operations Branch shall verify that the contents are of insubstantial commercial value.

(b) If the administrator declines to receive any property because of insubstantial commercial value, the holder may dispose of the property as it sees fit, provided that the holder gives notice to the administrator prior to such disposition as to its intentions.

HISTORY:

Amended by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

Added new (a); recodified former (a) as (b) and in new (b), deleted "and the administrator ... for legal purposes"; and deleted former (b) through (d).

Chapter Notes

§ 18:13-1.7 Retention of records

(a) The holder shall retain records pursuant to N.J.S.A. 17:14A-50.

(b) Every holder required to file a report under Article 17 of N.J.S.A. 46:30B, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for five years after the property becomes reportable, except to the extent that a shorter time is provided by rule of the administrator.

Chapter Notes

§ 18:13-1.8 Continuity of records

Where a holder acquires unclaimed property from another holder, such as in a merger, acquisition, reorganization, consolidation, or transfer, that successor holder shall have a duty to maintain and continue the records of the prior holder concerning the unclaimed property, including, but not limited to, the date of the last rental payment, lease period, or other custodial agreement.

Chapter Notes

§ 18:13-1.9 Notice requirement

(a) The holder shall give written notice to the apparent owner by certified mail with return receipt requested not more than 120 days nor less than 60 days before the report is filed, pursuant to N.J.S.A. 46:30B-50, informing the apparent owner that the holder is in possession of property presumed abandoned if:

1. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;
2. The claim of the apparent owner is not barred by the statute of limitations; and
3. The property has a value of \$ 50.00 or more.

HISTORY:

Amended by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

In (a), inserted "by certified mail with return receipt requested" preceding "not more" and "nor less than 60 days" following "120 days".

Chapter Notes

§ 18:13-1.10 Liability in general and constructive delivery

(a) Upon payment or constructive delivery of property to the administrator, the State shall assume custody and responsibility for the safekeeping of the property and the holder shall be relieved from liability.

(b) A holder who pays or performs constructive delivery of the property to the administrator in good faith, is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

Chapter Notes

§ 18:13-1.11 Inspection of holder inventory or safe deposit box

(a) The holder shall submit a timely and accurate report for boxes and safekeeping repositories presumed abandoned.

(b) The Unclaimed Property Operations Branch shall notify the holder by written or oral communication referencing the report summary detailing the inventory that will be inspected.

1. This communication shall request the following two items from the holder:

i. The name of the individual who should be contacted by the Property Administration Branch in order to arrange the inspection; and

ii. A statement from an official of the holder sent to the Property Administration Branch, affirming that all provisions of the Uniform Unclaimed Property Act (N.J.S.A. 46:30B-1 et seq.) and the Safe Deposit Box Companies-Proceedings for Unpaid Rental Statute (N.J.S.A. 17:14A-51) have been met by the holder with respect to those boxes or repositories being reported.

(c) The inventory verification will be performed with a representative(s) of the State's Unclaimed Property Program and a representative(s) of the holder in attendance.

1. Inventory items will be visually inspected and verified against the report. Each envelope of contents shall be sealed with tape and signed by the holder and representative of the Unclaimed Property Operations Branch across the tape. These envelopes are placed in a storage box which shall be taped with specially printed tape.

i. A resolution will be arrived at and documented in the event of any discrepancies in the inventory verification process.

(d) The holder will be provided with an inspection completion letter and if the Treasury representative does not take immediate possession, the holder representative shall secure a safe deposit box or vault in the name of the Treasurer, State of New Jersey until such time as arrangements can be made to remove the contents.

HISTORY:

Amended by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

In (b), substituted "written or oral communication" for "letter" in the introductory paragraph and substituted "This communication" for "The letter" in (b)1; and in (d), inserted "holder" preceding second occurrence of "representative" and deleted the last sentence.

Chapter Notes

§ 18:13-1.12 Sale of tangible property

The sale of all tangible property shall be conducted pursuant to the requirements of N.J.S.A. 46:30B-72.1.

Chapter Notes

§ 18:13-1.13 Rights of purchaser of property

Pursuant to N.J.S.A. 46:30B-73, the purchaser of property at any sale conducted by the administrator takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

Chapter Notes

§ 18:13-1.14 Penalties

Interest and penalties for noncompliance shall be enforced according to N.J.S.A. 46:30B-103 and 104.

Chapter Notes

§ 18:13-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"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 N.J.S.A. 46:30B-1 et seq., and to execute any pertinent documents.

"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.

"Communicated in writing" includes:

1. Written notification by the owner or a facsimile or e-mail transmission of the facsimile initiated by the owner to the financial organization which is the holder of the owner's time deposit, of a change of address of the owner;

2. Written signed confirmation by the owner in response to an oral or written communication from the financial organization;

3. The cashing of a check by the owner at the financial organization which is the holder of the owner's time deposit;

4. The making of a deposit or withdrawal with the financial organization which is the holder of the owner's time deposit;

5. Electronic accessing by the owner of any account of the owner held by the financial organization which is the holder of the owner's time deposit;

6. Responding to financial privacy "opt out" notices; or

7. Any other type of written correspondence made by the owner of the property to the financial organization.

"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 other organization defined by other law as a bank or banking organization, which is the holder of a time deposit.

"Holder" means a financial organization, wherever organized or domiciled, which is the original obligor indebted to another on an obligation.

"Maturity" means the date on which a time deposit may be redeemed or renewed.

"Owner" means a person, or the owner's legal representative, who is renting or leasing a safe deposit box, or other safekeeping repository, or otherwise has a legal or equitable interest in property subject to this chapter 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.

"Time deposit" means an interest-bearing deposit at a financial organization that has a specific maturity date, including, but not limited to, a certificate of deposit, and any deposit that is automatically renewable, held by or in a financial organization.

Chapter Notes

§ 18:13-2.2 Conduct by owner indicating interest in time deposit

(a) The following acts by the owner of a time deposit shall constitute non-abandonment of the time deposit:

1. Consent in writing to a renewal of the time deposit at or about the time of renewal and signed by the owner, given by delivery of the original, a signed facsimile or an e-mail transmission of the facsimile initiated by the owner, or demonstrated by the existence of a memorandum made at the time of renewal or other record on file with holder; or

2. The owner, within three years after the earlier of maturity date or the date of the last indication by the owner of an interest in the deposit, has:

i. Increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

ii. Communicated in writing with the financial organization concerning the time deposit, including requesting that the time deposit be redeemed;

iii. Otherwise indicated an interest in the deposit as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the financial organization; or

iv. Owned other property to which (a)2i, ii and iii above apply and the financial organization communicates in writing with the owner about the deposit that would otherwise be presumed abandoned under this section at the address to which communications regarding the other property regularly are sent; or

v. Had another relationship other than time or demand deposits, such as, but not limited to, a safe deposit box, mortgage, stocks, bonds or other investments, with the financial organization concerning which the owner has:

(1) Communicated in writing with the financial organization; or

(2) Otherwise indicated an interest as evidenced by a contemporaneous memorandum or other record on file prepared by an employee of the financial organization and the financial organization communicates in writing with the owner about the time deposit that would otherwise be abandoned under this section at the address to which communications regarding the other relationship regularly are sent.

(b) The date on which the owner has last indicated an interest in and awareness of the owner's time deposit, as defined in (a) above, or the date of maturity if no conduct evidencing such interest is made, whichever is earlier, shall start the running of the three year abandonment period. However, a written communication mailed to an owner and returned marked "undeliverable" or "unclaimed" shall be deemed to start the running of the abandonment period from the date of receipt by the financial organization of the returned mailing. When periodic interest checks are issued on a time deposit, the abandonment period will commence on the date of an uncashed interest check, and the time deposit will be considered abandoned if all subsequent interest checks continue to remain uncashed through the entire statutory abandonment period, unless there is other conduct by the owner indicating interest in the time deposit as specified elsewhere in this section and applicable statutory law.

(c) If an automatically renewable time or nonrenewable deposit is deemed abandoned prior to its initial maturity, the time for delivery of the time deposit to the administrator will be extended to the date of maturity pursuant to N.J.S.A. 46:30B-21 or three years from the date at which the abandonment period commenced, whichever is later.

Chapter Notes

§ 18:13-2.3 Notice to apparent owners of time deposits by certified mail, return receipt requested, before the filing of a report by the holder

(a) Not more than 120 days nor less than 60 days before filing the report of abandoned property with the administrator, the holder in possession of a time deposit presumed abandoned and subject to custody as unclaimed property, shall send, by certified mail, and with return receipt requested, written notice to the apparent owner at the apparent owner's last known address informing the apparent owner that the holder is in possession of property subject to the custody of the State, if:

1. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate; and

2. The property has a value of \$ 50.00 or more.

(b) Notices sent by certified mail, return receipt requested, by financial organizations pursuant to N.J.S.A. 46:30B-50, shall contain, but not be limited to, the following language:

"Please contact us immediately, either in person, in writing, by telephone or electronically. Our review of the account referenced below indicates that there has been no contact or activity in your account for at least three years. Under New Jersey's Uniform Unclaimed Property Act we are required to make a diligent attempt to renew contact. If contact is not renewed we are required to transfer your account to the custody of the State of New Jersey. The State is required to maintain custody of these funds until you come forward to claim them from the State. The State must pay you interest when the funds are returned."

In addition, the following is suggested language for inclusion, but may be modified by the holder as appropriate:

"To reestablish contact and avoid having your account transferred to the State, you may sign below and return this letter in the enclosed envelope no later than (insert #of days) from the date of this letter. Once we receive the signed letter we will restore your account to an active status. The account will also be restored to active status if you make a deposit or withdrawal on your account to show immediate activity, or by simply calling us at (insert bank tel. #). You can also e-mail us at (insert e-mail address) or by electronically accessing your account if your account is set up for electronic access. This type of routine contact assures that accounts are not incorrectly classified as abandoned. If you have any updated address information, please provide it in the space below."

Chapter Notes

§ 18:13-2.4 Notice to apparent owners of time deposits by regular mail

The holder may, at any time, send a written notice to the apparent owner of a time deposit by regular mail in an attempt to establish contact that would recommence the running of the abandonment period. However, failure to establish contact with the apparent owner by regular mail that is sent less than 120 days but not less than 60 days before the filing of the report to be sent to the administrator as required by N.J.S.A. 46:30B-50, shall not relieve the holder from sending the required written notice by certified mail return receipt requested as set forth in 18:13-2.3 above. The written notice by regular mail shall contain the mandatory language which may be supplemented by the suggested language set forth in 18:13-2.3(b).

Chapter Notes

§ 18:13-3.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Dormant or inactive" means the period of no activity for a number of consecutive days since the last activity date noted in the system of the holder, issuer or securities broker of property. Dormant status is based upon lack of customer-initiated activity, deposits/withdrawals, passbook updates and non-repetitive transfers. System generated activity (such as interest postings, automatic interest transfers, service fees) does not affect the dormant or inactive date calculations. Customer generated activity such as a name or address change is considered contact and will cause an account to no longer be considered dormant or inactive.

"Dormant or dormancy fees" mean any fees that are charged as a result of property being classified as dormant or inactive.

"Securities broker" means any person engaged in the business of effecting or attempting to effect transactions in securities for the accounts of others or for his own account including:

1. An agent;
2. An issuer;
3. A person who effects transactions in this State exclusively in securities described in N.J.S.A. 49:3-50(a)1 and 2;
4. A bank, savings institution, or trust company; or
5. A person who effects transactions in this State exclusively with or through:
 - i. The issuers of the securities involved in the transactions;
 - ii. Other securities brokers;
 - iii. Banks, savings institutions, trust companies, insurance companies, investment companies as defined in the "Investment Company Act of 1940," 15 U.S.C. §80a-1 et seq., pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or
 - iv. Such other persons not otherwise within the intent of the Uniform Securities Law, N.J.S.A. 49:3-49(c), as the bureau chief of the Bureau of Securities in the Division of Consumer Affairs of the Department of Law and Public Safety, as set forth in N.J.S.A. 49:3-66, may by rule or order designate.

"Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement, including, but not limited to, certificates of interest or participation in real or personal property; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest in an oil, gas or mining title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to

subscribe to or purchase, any of the foregoing.

Chapter Notes

§ 18:13-3.2 Dormancy fees; unconscionability; limitations

(a) No dormancy fees may be imposed by a holder unless:

1. There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose such a fee; and

2. The holder regularly imposes charges and does not regularly reverse or otherwise cancel those charges with respect to the property. Also, no additional charges shall be assessed as a result of escheatment of the property.

(b) In addition to the requirements of (a) above, dormancy fees may not be unconscionable. Dormancy fees are not unconscionable applied where:

1. Holders of money orders pursuant to N.J.S.A. 46:30B-13:

i. Impose the fees uniformly to all of the issuer's money orders;

ii. Clearly disclose the fees to the purchaser of the money order at the time of the purchase and to the recipient of the money order;

iii. Do not accrue the fees until at least three years after the purchase date and the fees stop accruing after the value of the money order is escheated;

iv. Are permitted to do so by contract between the issuer and the purchaser; and

v. Do not impose fees that exceed the sum of \$.25 per month per money order or the aggregate amount of \$ 21.00 per money order;

2. Holders of checks, drafts and similar instruments issued or certified by a financial organization pursuant to N.J.S.A. 46:30B-16 and 17:

i. Impose the fees uniformly to all of the instruments issued by the holder;

ii. Clearly disclose the fees to the owner/payee of the instrument;

iii. Do not accrue the fees until at least one year after the issue date and the fees stop accruing after the value of the instrument is escheated;

iv. Are permitted to do so by contract between the holder or issuer and the owner/payee; and

v. Do not impose fees that exceed the sum of \$.25 per month per instrument or the aggregate amount of \$ 9.00 per instrument;

3. Holders of demand or savings deposits and any funds paid toward the purchases of shares, mutual fund investment certificates, or any other interests in a financial organization held pursuant to N.J.S.A. 46:30B-18 and 20:

i. Impose the fees uniformly to all property types referred to in N.J.S.A. 46:30B-18;

- ii. Clearly disclose the fees to the owner of the property;
 - iii. Do not accrue the fees until at least one year of no activity for the property or of any related property of the owner held by the holder;
 - iv. Are permitted to do so by contract between the holder and the owner;
 - v. Do not impose fees that exceed the sum of \$ 5.00 per month per property item or the aggregate amount of \$ 120.00 per said item; and
 - vi. For property held in excess of \$ 2.00 pursuant to N.J.S.A. 46:30B-18, no more than three months before the initial imposition of those charges or cessation of interest, have given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease;
4. Security brokers who are the holders of security accounts:
- i. Impose the fees uniformly to all security accounts;
 - ii. Clearly disclose the fees to the owners of the security accounts;
 - iii. Do not accrue the fees until at least one year of no activity for the security account held by the security broker;
 - iv. Are permitted to do so by contract between the security broker and the owner; and
 - v. Do not impose fees that exceed the sum of \$ 5.00 per month per security account or the aggregate amount of \$ 120.00 per security account; and
5. Holders of all property not covered under (b)1 through 4 above:
- i. Impose the fees uniformly to all property held by the holder;
 - ii. Clearly disclose the fees to the apparent owner who has a legal or equitable interest in any property generally at the time of the purchase;
 - iii. Do not accrue the fees until at least one year after the purchase date and the fees stop accruing after the value of the property is escheated;
 - iv. Are permitted to do so by contract between the holder and apparent owner who has a legal or equitable interest in the property; and
 - v. Do not impose fees that exceed the sum of \$.25 per month per property item or the aggregate amount of \$ 9.00 per said item.

Chapter Notes

§ 18:13-4.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"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 N.J.S.A. 46:30B-1 et seq., and to execute any pertinent documents.

"Searcher" means any person whether related by blood or otherwise, and any business entity, that enters into an agreement or authorization, with a claimant, to locate, deliver, recover or assist in the recovery or claim of abandoned property, whether or not for compensation.

HISTORY:

Recodified from 18:13-3.1 by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

Chapter Notes

§ 18:13-4.2 Payment to be made; claimant's address and signature in claim form; corporate claims

(a) Notwithstanding any language in any agreement, authorization or other writing with a searcher, whether for compensation or not, to locate, deliver, recover or assist in the recovery or claim of abandoned property, payment of any such claim, as approved by the administrator, shall be made by the administrator directly to the actual claimant, to the claimant's fiduciary named for a purpose other than the sole purpose of collecting the claim from the administrator, or to a court appointed representative authorized to collect the property of the claimant.

(b) Any claim form for unclaimed property as prescribed by the administrator, submitted to the administrator by a claimant, shall state the actual claimant's own address and be verified by the actual claimant's signature.

(c) Unless expressly directly otherwise by statute or court order, payment of a claim shall be made by the administrator to the actual claimant and sent to the claimant at the claimant's own address. The administrator will make payment jointly to a claimant and a claimant's attorney only when expressly directed to do so by court order.

(d) If a claimant is a business association as defined by N.J.S.A. 46:30B-6d and claims abandoned property as being owned by the business association, the business association shall provide proof that the business association is not dissolved or has not had its charter revoked for any reason by producing a current certificate of good standing (short form), status report, tax clearance certificate, or other document issued by the State of New Jersey showing good standing prior to any claim being paid to that claimant.

HISTORY:

Recodified from 18:13-3.2 by R.2006 d.222, effective June 19, 2006.

See: 37 N.J.R. 4390(a), 38 N.J.R. 2732(a).

Chapter Notes
