

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 N.J.A.C. 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 N.J.A.C. 18:13-2.3(b).

### SUBCHAPTER 3. DORMANCY FEES

#### 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.

#### 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.

#### SUBCHAPTER 4. PAYMENT OF CLAIM BY ADMINISTRATOR

##### 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.

Recodified from N.J.A.C. 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).

##### 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