

CHAPTER 13

UNCLAIMED PERSONAL PROPERTY

Authority

N.J.S.A. 46:30B-107

Source and Effective Date

R.2000 d.499, effective December 18, 2000.
See: 32 N.J.R. 3751(b), 32 N.J.R. 4451(b).

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Chapter 13, Unclaimed Personal Property, expires on December 18, 2005.

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: Source and Effective Date.

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SUBCHAPTER 1. SAFE DEPOSIT BOX POLICIES AND PROCEDURES

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) If the holder chooses to report electronically the State will require that the format be consistent with the State format for reporting safe deposit box or other safekeeping repository records. (See N.J.A.C. 18:13-1.3.)

(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 letter within 120 days of the report, of acceptance or rejection of constructive delivery (see N.J.A.C. 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.

18:13-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meaning 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 N.J.A.C. 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:

1. In possession of property belonging to another;
2. A Trustee; or
3. 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 who is renting or leasing the safe deposit box, or other safekeeping repository.

“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.

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 report from the Internet or the phone number to call in order to receive a paper copy of the reporting form.

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 shall be delivered to the Unclaimed Property Operations Branch in its original form. Cash shall not be converted to any other cash instrument.

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.

18:13-1.5 Reporting multiple 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).

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

(a) 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 and the administrator has accepted constructive delivery, that is, when the property is not in the immediate possession of the administrator but is assumed to be in his or her possession for legal purposes.

(b) Constructive delivery has been effectuated when the unclaimed property has been set apart by the holder and the holder's report sent to and accepted by the State, pursuant to N.J.A.C. 18:13-1.1(e)2.

(c) No action shall be taken against the holder on account of such disposition.

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

1. However, if the administrator rejects the property and does not choose constructive delivery, the holder destroys the property at his or her own risk.

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.

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.

18:13-1.9 Notice requirement

(a) The holder shall give written notice to the apparent owner not more than 120 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.

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.

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 letter referencing the report summary detailing the inventory that will be inspected.

1. The letter 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 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. The State Treasurer shall pay the cost of the rental fee for these boxes or vault(s).

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.

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.

18:13-1.14 Penalties

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