

5. The Governor notifies the Chief Justice of the determination. The Chief Justice notifies the Administrative Director, who in turn notifies the member; and

6. The member files an application for disability retirement identifying a date of retirement with the Division of Pensions and Benefits. The retirement cannot become effective until one month following the date of the application with the retirement system.

(a)

UNCLAIMED PROPERTY ADMINISTRATION

Unclaimed Personal Property

Proposed Readoption: N.J.A.C. 17:18

Authorized By: Steven R. Harris, Administrator, Unclaimed Property Administration.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-111.

Submit written comments by January 15, 2021, to:

Robert H. Davidson, Administrative Practice Officer
Department of the Treasury
Unclaimed Property Administration
PO Box 214
Trenton, NJ 08695-0214
Upa4compliance@treas.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 17:18 was scheduled to expire on November 20, 2020. As the Department of the Treasury, Unclaimed Property Administration (UPA) filed this notice of readoption prior to that date, the expiration date is extended 180 days to May 19, 2021, pursuant to N.J.S.A. 52:14B-5.1.c(2). The UPA proposes to readopt N.J.A.C. 17:18 to maintain the implementation of existing provisions of the Uniform Unclaimed Property Act (Act), N.J.S.A. 46:30B-1 et seq., which govern managing unclaimed property. The UPA has reviewed these rules and has deemed them necessary, reasonable, and proper for the purposes for which they were originally promulgated.

N.J.A.C. 17:18-1 relates to safe deposit box policies and procedures, including abandonment, reporting, inspection, estimation of value, custody, notifications, alternate disposition, retention of records, auction sales, rights of purchasers of safe deposit box contents, and penalties, as well as definitions of terms used in the subchapter.

N.J.A.C. 17:18-2 relates to time deposits and provide guidelines for determining whether a time deposit is abandoned and the proper notice to be sent to time deposit owners regarding contact, abandonment, reporting of the deposit to the Administrator of unclaimed property, and definitions of terms used in the subchapter.

N.J.A.C. 17:18-3 concerns dormancy fees. This section also restates the statutory requirements of the issuer or seller of stored value cards and contains definitions of terms used in the subchapter.

N.J.A.C. 17:18-4 relates to procedures governing payment of claims by the Administrator of unclaimed property and contains definitions of terms used in the subchapter.

N.J.A.C. 17:18-5 concerns types of communications required between the issuer, holder, or seller and the apparent owner.

As the UPA has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption were meant to clarify and explain for holders of: unclaimed safe deposit box property; time deposits; money orders; 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; checks, drafts, and similar

instruments issued or certified by a financial organization; security accounts; stored value cards; and all other abandoned property, the methodology to be followed in the holder's compliance efforts under the Act; and to develop a uniform understanding between the UPA and the holders of unclaimed property with regard to the various operational steps to be taken by the holders to report and deliver property. The rules proposed for readoption continue the above objectives.

Furthermore, the rules proposed for readoption are expected to further enable rightful owners to be reunited with their previously abandoned property, which is held in perpetuity until a rightful claim is made. The rules further provide a means to consolidate and adopt a unified approach towards the treatment of unclaimed property in the State of New Jersey.

Thus, the rules proposed for readoption clarify, for holders, the occurrence of events needed to determine whether property should be deemed abandoned under the Act. The rules should assist holders in their compliance efforts under New Jersey's unclaimed property statutes and should continue to develop a uniform understanding between the UPA and holders for reporting and delivering property. The rules afford a comprehensive and consistent treatment of property to protect the holder, the rightful owner, and the State. As a result, potential litigation concerning the interpretation of the Act and its application to unclaimed property should be minimized.

The provisions of the rules proposed for readoption, pertaining to detailed notice, and the manner in which that notice is to be given to apparent owners of abandoned property, and the requirement that claims may be paid only to an owner and not an heir searcher, continue to serve the statutory aim of protecting owners' interests in property that is or may become abandoned. Therefore, the rules should continue to enable the rightful owners to be reunited with their property.

Economic Impact

The rules proposed for readoption are expected to have no adverse economic impact in and of themselves because the rules implement the requirements of the Act pertaining to unclaimed property. The rules are likely to have a positive economic effect on the class of individuals expected to be affected by the rules proposed for readoption because they clarify the means of communication that may be utilized by certain holders of property deemed to be abandoned and the nature of the notices that must be sent to owners before property presumed to be abandoned is turned over to the Administrator by these holders.

Approximately 75 percent of the money generated by the administration of the abandoned property program is ultimately deposited into the State's General Fund. The remaining funds are retained for payment of claims and to administer the program. There is no time limit on when claims may be made. Thus, sufficient funds will always be made available for the payment of claims, since the State is obligated in perpetuity to pay all valid claims.

The rules proposed for readoption impose no additional costs on bank holders of property since banks are already required to maintain the information to be reported in accordance with the Act and the rules and laws regarding banking.

The rules proposed for readoption contain procedures that are designed to reunite the rightful owners of abandoned property with their property in a quick and efficient manner. Various economic issues are addressed by the rules, including how to report multiple safekeeping boxes of items, as well as indemnification of the holder where the State elects not to receive the property.

It is not expected that the UPA will require any staff increase or additional resources to carry out its responsibilities under the rules proposed for readoption.

Federal Standards Statement

The rules proposed for readoption do not contain requirements that exceed any requirements imposed by Federal law. The rules represent policies of the State of New Jersey regarding implementation of N.J.S.A. 46:30B-1 et seq., that are independent of Federal requirements or standards. Accordingly, no Federal standards analysis is required.

Jobs Impact

The Administrator does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry beyond their general impact on the population as a whole.

Regulatory Flexibility Analysis

The rules proposed for readoption apply to all holders of unclaimed property subject to the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq., which may include small businesses as this term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption continue to impose specific reporting and recordkeeping requirements on financial institutions. Penalties may be enforced for lack of compliance with these requirements pursuant to N.J.S.A. 46:30B-103 and 104.

When the rental fee of a safe deposit box or other safekeeping repository is unpaid for one year, the financial institution must take certain steps to ensure the proper accounting of the contents found in the box or repository, pursuant to N.J.S.A. 17:14A-51. The holder must notify the owner by a written notice sent by registered mail, that if the rental for the box or repository is not paid within 30 days after the date of the mailing of the notice, it will have the box or repository opened and the contents, if any, placed in a sealed package by a notary public, marked by the notary public with the name of the lessee or lessees in whose name the box or repository stands and the estimated value thereof, and the package so sealed and marked will be placed in one of the general vaults, safes, or boxes of the holder. The holder incurs any costs due to breaking open the box or repository and repairing and restoring it for another customer's use.

The holder thereafter has a lien on the contents of the box or repository so removed for the amount due on it for the rental of same up to the time of the removal of the contents and for the costs and expenses, if any, incurred in its opening, repairing, and restoration for use. If the lien is not paid and discharged within one year from the opening of the box or repository and the removal of its contents, the holder may sell the contents at public auction, or so much thereof as is required, to pay and discharge the lien and expenses of sale. A notice of the date, time, and place of the sale must be advertised in a newspaper having a general circulation at least once per week for two successive weeks prior to the sale. The holder may retain from the proceeds of the sale the amount due to it for its lien and the expenses of sale. The balance of the proceeds of the sale and the unsold contents, if any, are to be held to be paid and delivered to the lessee or owner of the contents of the safe deposit box or repository so sold.

When five years have transpired from the time the rental fee for the safe deposit box or repository originally became unpaid, the remaining proceeds are to be paid over to the State. Also, property not sold is turned over to the State at this time. This is accomplished through both reporting and delivery of the property. Reporting might not occur at the same time as actual delivery because the Administrator will first inspect the property based on the report.

For reporting, the holder will be sent a notification each year detailing any changes in reporting requirements. Records are required to be maintained pursuant to N.J.S.A. 17:14A-50. The holder must report each safe deposit box individually with regard to the assets, lien charges, sale expense, and sale proceeds; holders do not apply lien charges and sale

expenses, in total, to proceeds received from the sale. If the sale was held, the proceeds due to the State must be remitted with the report.

Compliance by smaller financial organizations with the notice requirements should not require any initial capital or annual costs, but could result in cost savings. This is because the rules would continue to allow financial organizations to attempt to contact owners of time deposits by regular mail before having to use certified mail, return receipt requested, and would, thus, save mailing costs (see N.J.A.C. 17:18-2.4). This could result in a decrease in the number of accounts that financial organizations would be required to report and turn over to the Administrator as abandoned property. In addition, while some holders might see a reduction in the amount of dormancy fees they might otherwise charge, given the computerization of records and ease of handling of account information that would occur regardless of dormancy fees, such a reduction should not result in any adverse impact on small financial organizations. Such limitation is needed to meet the statutory mandate that dormancy fees not be unconscionable. However, there should be no additional services needed by any small businesses due to reporting, recordkeeping, or other compliance requirements.

Some financial institutions may wish to retain the services of professionals, such as appraisers, to ascertain if the rules proposed for readoption pertain to their businesses. However, this should have no impact on the operations of any financial institutions assuming that the professionals charge at normal rates. The UPA anticipates that the rules proposed for readoption will not increase capital costs of small businesses or their need for professional services.

Housing Affordability Impact Analysis

The rules proposed for readoption will not have an impact on the affordability of housing or result in a change in the average costs associated with housing. The rules implement recent statutory changes in the Uniform Unclaimed Property Act and involve procedures for holding, reporting, and paying claims pertaining to unclaimed property.

Smart Growth Development Impact Analysis

The rules proposed for readoption will not impact smart growth and there is an extreme unlikelihood that they would result in a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey, but only involve procedures for holding, reporting, and paying claims pertaining to unclaimed property.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The UPA has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:18.