

CS/CS/HB 1259

2007

1 A bill to be entitled
2 An act relating to gift certificates and similar credit
3 items; creating s. 501.95, F.S.; defining the terms
4 "credit memo" and "gift certificate"; prohibiting a gift
5 certificate or credit memo sold or issued for
6 consideration in this state from having an expiration
7 date, expiration period, or any type of postsale charge or
8 fee imposed on the gift certificate or credit memo;
9 providing certain exceptions; creating s. 717.1045, F.S.;
10 providing that the holder of an unredeemed gift
11 certificate or credit memo is not required to report the
12 unredeemed gift certificate or credit memo as unclaimed
13 property to the Department of Financial Services;
14 providing that the consideration paid for an unredeemed
15 gift certificate or credit memo is the property of the
16 issuer, subject only to any rights of a purchaser or
17 owner, and is not subject to a claim made by any state
18 acting on behalf of a purchaser or owner; requiring that a
19 gift certificate or credit memo be reported as unclaimed
20 property; providing legislative intent; providing the
21 consideration paid for the gift certificate or credit memo
22 is the property of the owner of the gift certificate or
23 credit memo; providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 501.95, Florida Statutes, is created to
28 read:

29 501.95 Gift certificates and credit memos.--

30 (1) As used in this section, the term:

31 (a) "Credit memo" means a certificate, card, stored value
32 card, or similar instrument issued in exchange for returned
33 merchandise when the certificate, card, or similar instrument is
34 redeemable for merchandise, food, or services regardless of
35 whether any cash may be paid to the owner of the certificate,
36 card, or instrument as part of the redemption transaction.

37 (b) "Gift certificate" means a certificate, gift card,
38 stored value card, or similar instrument issued in exchange for
39 monetary consideration when the certificate, card, or similar
40 instrument is redeemable for merchandise, food, or services
41 regardless of whether any cash may be paid to the owner of the
42 certificate, card, or instrument as part of the redemption
43 transaction, but this term shall not include tickets as
44 specified in s. 717.1355.

45 (2) (a) A gift certificate or credit memo sold or issued
46 for consideration in this state may not have an expiration date,
47 expiration period, or any type of postsale charge or fee imposed
48 on the gift certificate or credit memo, including, but not
49 limited to, service charges, dormancy fees, account maintenance
50 fees, or cash-out fees. However, a gift certificate may have an
51 expiration date of not less than 3 years if it is provided as a
52 charitable contribution when no consideration is given to the
53 issuer by the consumer, or not less than 1 year if it is
54 provided as a benefit pursuant to an employee-incentive program,
55 consumer-loyalty program, or promotional program when no
56 consideration is given to the issuer by the consumer, and the

57 expiration date is prominently disclosed in writing to the
58 consumer at the time it is provided. In addition, a gift
59 certificate may have an expiration date if it is provided as
60 part of a larger package related to a convention, conference,
61 vacation, or sporting or fine arts event having a limited
62 duration so long as the majority of the value paid by the
63 recipient is attributable to the convention, conference,
64 vacation, or event. An issuer may honor a gift certificate that
65 has expired on or before the effective date of this act.

66 (b) Paragraph (a) does not apply to a gift certificate or
67 credit memo sold or issued by a financial institution, as
68 defined in s. 655.005, or by a money transmitter, as defined in
69 s. 560.103, if the gift certificate or credit memo is redeemable
70 by multiple unaffiliated merchants.

71 Section 2. Section 717.1045, Florida Statutes, is created
72 to read:

73 717.1045 Gift certificates and similar credit
74 items.--Notwithstanding s. 717.117, an unredeemed gift
75 certificate or credit memo as defined in s. 501.95 is not
76 required to be reported as unclaimed property.

77 (1) The consideration paid for an unredeemed gift
78 certificate or credit memo is the property of the issuer of the
79 unredeemed gift certificate or credit memo.

80 (2) An unredeemed gift certificate or credit memo is
81 subject only to any rights of a purchaser or owner thereof and
82 is not subject to a claim made by any state acting on behalf of
83 a purchaser or owner.

84 (3) It is the intent of the Legislature that this section

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85 apply to the custodial holding of unredeemed gift certificates
86 and credit memos.

87 (4) However, a gift certificate or credit memo described
88 in s. 501.95(2)(b) shall be reported as unclaimed property. The
89 consideration paid for such a gift certificate or credit memo is
90 the property of the owner of the gift certificate or credit
91 memo.

92 Section 3. This act shall take effect upon becoming a law.