

By the Committee on Banking and Insurance; and Senators
Constantine, Webster and Atwater

597-2110-07

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

29 501.95 Gift certificates and credit memos.--

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

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1 (a) "Credit memo" means a certificate, card, stored
2 value card, or similar instrument issued in exchange for
3 returned merchandise when the certificate, card, or similar
4 instrument is redeemable for merchandise, food, or services
5 regardless of whether any cash may be paid to the owner of the
6 certificate, card, or instrument as part of the redemption
7 transaction.

8 (b) "Gift certificate" means a certificate, gift card,
9 stored value card, or similar instrument issued in exchange
10 for monetary consideration when the certificate, card, or
11 similar instrument is redeemable for merchandise, food, or
12 services regardless of whether any cash may be paid to the
13 owner of the certificate, card, or instrument as part of the
14 redemption transaction.

15 (2)(a) A gift certificate or credit memo sold or
16 issued for consideration in this state may not have an
17 expiration date, expiration period, or any type of postsale
18 charge or fee imposed on the gift certificate or credit memo,
19 including, but not limited to, service charges, dormancy fees,
20 account maintenance fees, or cash-out fees. However, a gift
21 certificate may have an expiration date of not less than 3
22 years if it is provided as a free benefit pursuant to an
23 employee-incentive program, consumer-loyalty program, or
24 promotional program, or is provided for a charitable purpose,
25 and payment of consideration is not required. In addition, a
26 gift certificate may have an expiration date if it is provided
27 as part of a larger package related to a convention,
28 conference, or vacation having a limited duration so long as
29 the majority of the value paid by the recipient is
30 attributable to the convention, conference, or vacation.

1 (b) Paragraph (a) does not apply to a gift certificate
2 or credit memo sold or issued by a financial institution, as
3 defined in s. 655.005, or by a money transmitter, as defined
4 in s. 560.103, if the gift certificate or credit memo is
5 redeemable by all merchants that accept monetary consideration
6 remitted through the financial institution or money
7 transmitter that sold or issued the gift certificate or credit
8 memo.

9 Section 2. Section 717.1045, Florida Statutes, is
10 created to read:

11 717.1045 Gift certificates and similar credit
12 items.--Notwithstanding s. 717.117, an unredeemed gift
13 certificate or credit memo as defined in s. 501.95 is not
14 required to be reported as unclaimed property. The
15 consideration paid for an unredeemed gift certificate or
16 credit memo is the property of the issuer of the unredeemed
17 gift certificate or credit memo. An unredeemed gift
18 certificate or credit memo is subject only to any rights of a
19 purchaser or owner thereof and is not subject to a claim made
20 by any state acting on behalf of a purchaser or owner.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1638

The Committee Substitute provides the following changes:

1. Adds exceptions to the prohibition against gift cards and credit memos having expiration dates or postsale charges for financial institutions and money transmitters, under certain criteria.
2. Allows a gift certificate to have an expiration date of not less than 3 years if it is provided as a free benefit pursuant to an employee incentive program, consumer loyalty program, promotional program or charitable purpose and payment of consideration is not required.
3. Allows a gift certificate to have an expiration date if it is provided as part of a larger package related to a convention, conference, or vacation having a limited duration, under certain conditions.
4. Transfers the prohibitions from Chapter 717, F.S., (Unclaimed Property) to Chapter 501, F.S., (Consumer Protection).