

1 (1) It is the intent of the Legislature that this
2 section apply to the custodial holding of unredeemed gift
3 certificates and credit memos.

4 (2) As used in this section, the term:

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

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

19 (3)(a) A gift certificate or credit memo sold or
20 issued for consideration in this state may not have an
21 expiration date, expiration period, or any type of postsale
22 charge or fee imposed on the gift certificate or credit memo,
23 including, but not limited to, service charges, dormancy fees,
24 account maintenance fees, or cash-out fees. However, a gift
25 certificate may have an expiration date of not less than 3
26 years if it is provided as a charitable contribution when no
27 consideration is given to the issuer by the consumer, or not
28 less than 1 year if it is provided as a benefit pursuant to an
29 employee-incentive program, consumer-loyalty program, or
30 promotional program when no consideration is given to the
31 issuer by the consumer, and the expiration date is prominently

1 disclosed in writing to the consumer at the time it is
2 provided. In addition, a gift certificate may have an
3 expiration date if it is provided as part of a larger package
4 related to a convention, conference, vacation, or sporting or
5 fine arts event having a limited duration so long as the
6 majority of the value paid by the recipient is attributable to
7 the convention, conference, vacation, or event. An issuer may
8 honor a gift certificate that has expired on or before the
9 effective date of this act.

10 (b) Paragraph (a) does not apply to a gift certificate
11 or credit memo sold or issued by a financial institution, as
12 defined in s. 655.005, or by a money transmitter, as defined
13 in s. 560.103, if the gift certificate or credit memo is
14 redeemable by multiple unaffiliated merchants that accept
15 monetary consideration remitted through the financial
16 institution or money transmitter that sold or issued the gift
17 certificate or credit memo.

18 Section 2. Section 717.1045, Florida Statutes, is
19 created to read:

20 717.1045 Gift certificates and similar credit
21 items.--Notwithstanding s. 717.117, an unredeemed gift
22 certificate or credit memo as defined in s. 501.95 is not
23 required to be reported as unclaimed property. The
24 consideration paid for an unredeemed gift certificate or
25 credit memo is the property of the issuer of the unredeemed
26 gift certificate or credit memo. An unredeemed gift
27 certificate or credit memo is subject only to any rights of a
28 purchaser or owner thereof and is not subject to a claim made
29 by any state acting on behalf of a purchaser or owner.

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

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 1638

4 This Committee Substitute (CS) differs from the original bill
5 as filed in the following manner:

- 6 - Provides legislative intent for the CS to prevent other
7 states from claiming an interest in the unclaimed value
8 on gift cards;
- 9 - Reduces the time period, from 3 years to 1 year, of a
10 gift card given pursuant to an employee-incentive
11 program, consumer-loyalty program, or promotional
12 program, under certain conditions;
- 13 - Expands the exemption to include sporting or fine arts
14 events when included as part of a larger package related
15 to the sporting or fine arts event;
- 16 - Inserts a retroactivity clause to permit retailers to
17 honor a gift certificate that has expired on or before
18 the effective date of the act, if they choose to do so;
19 and
- 20 - Clarifies that a gift card issued by a bank or money
21 transmitter may expire if it is redeemable by merchants
22 who are not affiliated with one another or the bank/money
23 transmitter and who receive monetary consideration
24 remitted through the bank or money transmitter.

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