Florida Senate - 2007

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

577-2204-07

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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	providing legislative intent; defining the
5	terms "credit memo" and "gift certificate";
6	prohibiting a gift certificate or credit memo
7	sold or issued for consideration in this state
8	from having an expiration date, expiration
9	period, or any type of postsale charge or fee
10	imposed on the gift certificate or credit memo;
11	providing certain exceptions; creating s.
12	717.1045, F.S.; providing that the holder of an
13	unredeemed gift certificate or credit memo is
14	not required to report the unredeemed gift
15	certificate or credit memo as unclaimed
16	property to the Department of Financial
17	Services; providing that the consideration paid
18	for an unredeemed gift certificate or credit
19	memo is the property of the issuer, subject
20	only to any rights of a purchaser or owner and
21	is not subject to a claim made by any state
22	acting on behalf of a purchaser or owner;
23	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
28	created to read:
29	501.95 Gift certificates and credit memos
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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	<u>(a) "Credit memo" means a certificate, card, stored</u>
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	<u>less than 1 year if it is provided as a benefit pursuant to an</u>
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
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1 disclosed in writing to the consumer at the time it is 2 provided. In addition, a gift certificate may have an expiration date if it is provided as part of a larger package 3 related to a convention, conference, vacation, or sporting or 4 fine arts event having a limited duration so long as the 5 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 effective date of this act. 9 10 (b) Paragraph (a) does not apply to a gift certificate or credit memo sold or issued by a financial institution, as 11 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 redeemable by multiple unaffiliated merchants that accept 14 monetary consideration remitted through the financial 15 institution or money transmitter that sold or issued the gift 16 17 certificate or credit memo. 18 Section 2. Section 717.1045, Florida Statutes, is created to read: 19 717.1045 Gift certificates and similar credit 20 21 items. -- Notwithstanding s. 717.117, an unredeemed gift 2.2 certificate or credit memo as defined in s. 501.95 is not 23 required to be reported as unclaimed property. The consideration paid for an unredeemed gift certificate or 2.4 credit memo is the property of the issuer of the unredeemed 25 gift certificate or credit memo. An unredeemed gift 26 27 certificate or credit memo is subject only to any rights of a 2.8 purchaser or owner thereof and is not subject to a claim made by any state acting on behalf of a purchaser or owner. 29 30 Section 3. This act shall take effect upon becoming a 31 law.

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CS for CS for SB 1638

1	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
2	<u>CS/SB 1638</u>
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4 5	This Committee Substitute (CS) differs from the original bill as filed in the following manner:
- Provides legislative intent for the CS to preven	 Provides legislative intent for the CS to prevent other states from claiming an interest in the unclaimed value
-	on gift cards;
- Reduces the time period, from 3 years to 1 y	 Reduces the time period, from 3 years to 1 year, of a gift card given pursuant to an employee-incentive
9	program, consumer-loyalty program, or promotional program, under certain conditions;
10	- Expands the exemption to include sporting or fine arts
11	events when included as part of a larger package related to the sporting or fine arts event;
12	- Inserts a retroactivity clause to permit retailers to
13	honor a gift certificate that has expired on or before the effective date of the act, if they choose to do so; and
14	 Clarifies that a gift card issued by a bank or money
15	transmitter may expire if it is redeemable by merchants who are not affiliated with one another or the bank/money
16 transmitter and who receive monetary conside	transmitter and who receive monetary consideration remitted through the bank or money transmitter.
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