

JAN 22 2010

A BILL FOR AN ACT

RELATING TO GIFT CERTIFICATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that on May 22, 2009,
2 President Obama signed into law the Credit Card Accountability,
3 Responsibility, and Disclosure Act of 2009 (which may be cited
4 as the Credit CARD Act of 2009), which imposes sweeping changes
5 to credit card industry practices and includes important
6 provisions that create new federal regulation of the issuance
7 and sale of gift cards, gift certificates, and open-loop prepaid
8 cards. The new law sets the minimum bar for both issuers and
9 sellers of prepaid stored value products regarding the
10 imposition of fees and expiration dates on prepaid products and
11 how terms regarding fees and expiration dates are disclosed to
12 consumers. Notably, the Credit CARD Act of 2009 does not apply
13 to traditional paper gift certificates, but generally would
14 apply to plastic cards and other payment codes or devices,
15 including standard gift cards as well as so-called "open-loop"
16 prepaid cards, such as those commonly issued by banks and usable
17 over Visa, MasterCard, American Express, Discover, or similar
18 payment networks.



1 Key provisions of the Credit CARD Act of 2009, relating to
2 gift cards provide that:

- 3 (1) Fees may not be imposed unless there has been no
4 activity for at least a twelve month period prior to
5 the date of the fee;
- 6 (2) Only one fee may be charged per month;
- 7 (3) Requires validity of at least five years; and
- 8 (4) Permitted fees and expiration dates must be
9 conspicuously disclosed.

10 However, there are several exemptions, including for telephone
11 services products, promotional cards, paper gift certificates,
12 and products for event or venue admission, which take effect on
13 August 22, 2010. The Credit CARD Act of 2009 also requires the
14 Federal Reserve Board to issue rules it considers necessary to
15 carry out the Act.

16 The legislature further finds that it is in the best
17 interests of consumers in the State of Hawaii to adopt key
18 provisions of the Credit CARD Act of 2009. The purpose of this
19 Act is to extend a number of these protections to holder of gift
20 certificates in Hawaii.

21 SECTION 2. Section 481B-13, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§481B-13 Gift certificates.** (a) Any restaurant or
2 person engaged in the business of offering services or goods for
3 sale at retail may allow customers to purchase gift
4 certificates; provided that the certificate issuer shall honor
5 the certificate for a period of at least [~~two~~] five years from
6 the date of issuance. A certificate issuer shall not charge a
7 service fee, including but not limited to a service fee for
8 dormancy or inactivity.

9 (b) The date of issuance and the expiration date shall be
10 clearly identified on the face of the gift certificate, or, if
11 an electronic card with a banked dollar value, clearly printed
12 upon a sales receipt transferred to the purchaser of the
13 electronic card upon the completed transaction. The expiration
14 date shall be not less than [~~two~~] five years after the date of
15 issuance. If the gift certificate does not have an expiration
16 date, it shall be valid in perpetuity.

17 (c) Gift certificates that are issued as part of an
18 awards, loyalty, or promotional program, or to a not-for-profit
19 charity organization, where no money or anything of value is
20 given to the issuer by the consumer in exchange for the gift
21 certificate, are exempt from this section; provided that the



1 expiration date, if any, appears on the gift certificate or
2 accompanying printed receipt.

3 (d) Any violation of this section shall constitute an
4 unfair or deceptive act or practice in the conduct of trade or
5 commerce within the meaning of section 480-2.

6 (e) As used in this section, unless the context requires
7 otherwise:

8 "Certificate issuer" or "issuer" means a restaurant or a
9 person engaged in the business of offering services or goods for
10 sale at retail who sells gift certificates to customers.

11 "Gift certificate" or "certificate" includes any electronic
12 card with a banked dollar value where the issuer has received
13 payment for the full banked dollar value for the future purchase
14 or delivery of goods or services, any certificate where the
15 issuer has received payment for the full face value of the
16 certificate for future purchases or delivery of goods or
17 services, and any other medium that evidences the giving of
18 consideration in exchange for the right to redeem the
19 certificate, electronic card, or other medium for goods, food,
20 or services of at least an equal value.



1 "Service fee" means a periodic fee, charge, or penalty for
2 holding or use of a gift certificate, but does not include a
3 one-time initial issuance fee."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: *Joseph H. Pab*
By Request

Report Title:

Gift Certificates

Description:

Extends the minimum expiration period for gift certificates from two to five years and requires issuers to honor gift certificates during this period. Defines "service fee".

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