

Honolulu, Hawaii
Feb 9, 2010

RE: H.B. No. 2289
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, & Military Affairs, to which was referred H.B. No. 2289 entitled:

"A BILL FOR AN ACT RELATING TO GIFT CERTIFICATES,"

begs leave to report as follows:

The purpose of this bill is to improve Hawaii's gift certificates law by adopting key provisions of the federal Credit Card Accountability, Responsibility, and Disclosure Act of 2009 (federal Act). Specifically this bill:

- (1) Extends the expiration date of certificates from two years to five years; and
- (2) Defines "service fee" to exclude a one-time issuance fee, thus allowing issuance fees to escape the prohibition on service fees under Hawaii law.

Hawaii Credit Union League, American Express, and a concerned individual supported this measure. Hawaii Bankers Association and Retail Merchants of Hawaii supported this bill with an amendment. The Department of Commerce and Consumer Affairs opposed this bill. Legislative Information Services of Hawaii, Inc., opposed this measure in part. VISA commented on this bill.

Your Committee finds that among other things the federal Act extended the expiration date of gift cards to five years. The federal Act applies to plastic gift cards and prepaid electronic



cards used over payment networks like Visa and MasterCard, does not apply to paper gift cards, and preempts state laws that provide less protection. Thus federal law has, in effect, already extended the two-year expiration date of Hawaii gift cards other than paper cards, to five years.

In addition, the Hawaii gift card law does not apply to federally chartered banks and savings associations, which are regulated only by federal law. Thus these institutions may sell prepaid electronic cards in Hawaii free of restrictions on service charges under Hawaii's gift card law. However, State-chartered banks are subject to these restrictions.

Upon consideration, your Committee has amended this bill by:

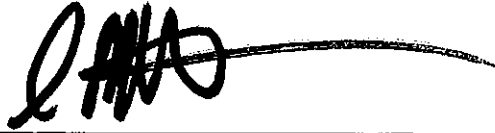
- (1) Providing that the minimum expiration date for paper gift certificates, which are for the most part issued by very small businesses, will continue to be two years;
- (2) Limiting issuance fees to the lesser of 15 percent of the face value of the certificate or \$7.50; and
- (3) Adopting the exemptions for certain kinds of plastic cards that are included in the federal Act to allow both federally chartered and state-chartered institutions to sell prepaid electronic cards in Hawaii without the restrictions of Hawaii's gift card law, thus leveling the playing field between these businesses.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2289, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2289, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.



Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization, Business, &
Military Affairs,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

UTSCR 211-10

Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs

Bill/Resolution No.: HB 2289	Committee Referral: EBM ^{CFC}	Date: Feb. 4, 2010		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EBM Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. BERG, Lyla B.	✓			
4. EVANS, Cindy	✓			
5. MANAHAN, Joey				✓
6. TAKAI, K. Mark		✓		
7. TOKIOKA, James Kunane				✓
8. TSUJI, Clift				✓
9. WAKAI, Glenn	✓			
10. WOOLEY, Jessica	✓			
11. WARD, Gene	✓			
TOTAL (11)	7	1		3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ <i>Isaac W. Choy</i>				
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