

Honolulu, Hawaii

Feb 26, 2010

RE: H.B. No. 2289

H.D. 2

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

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2289, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this bill is to afford protections to consumers who hold gift certificates in Hawaii by:

- (1) Extending the minimum expiration date for gift certificates, other than paper gift certificates, from two years to five years after the date of issuance;
- (2) Clarifying that the minimum expiration date for gift certificates issued only in paper form is two years from the date of issuance;
- (3) Limiting any issuance fee to 15 percent of the face value of the gift certificate or \$7.50, whichever is less;
- (4) Deleting the exemption for gift certificates that are issued as part of an awards, loyalty, or promotional program, or to a not-for-profit charity organization, where no consideration is given to the issuer by the consumer in exchange for the gift certificate;



- (5) Amending the definition of "gift certificate" or "certificate" to provide for certain exclusions including gift certificates issued as part of an awards, loyalty, or promotional program; and
- (6) Defining the term "service fee" to mean a periodic fee, charge, or penalty for holding or using a gift certificate, but excluding activation or issuance fees.

The Hawaii Bankers Association and a concerned individual testified in support of this bill. Legislative Information Services of Hawaii, Inc. and Visa Inc. supported this bill in part. The Department of Commerce and Consumer Affairs, the Commissioner of Financial Institutions, and Retail Merchants of Hawaii provided comments.

Your Committee finds that in addition to harmonizing Hawaii law with the provisions of the federal Credit Card Accountability, Responsibility, and Disclosure Act of 2009, this bill imposes a limit on maximum allowed gift certificate activation or issuance fees. However, concerns were raised about the appropriate amount of these fees.

Accordingly, your Committee has amended this bill by:


- (1) Changing the percentage of the maximum allowed issuance fee from 15 percent to an unspecified percentage;
- (2) Changing the maximum allowed issuance fee from \$7.50 to an unspecified dollar amount; and
- (3) Changing the effective date to January 1, 2020, to encourage further discussion.

This bill has also been amended by making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2289, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2289, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROBERT M. HERRES, Chair



