AN ACT

RELATING TO COMMERCIAL LAW - UNFAIR SALES PRACTICES - GIFT CERTIFICATES

Introduced By: Representatives Corvese, Ucci, Kennedy, and Azzinaro

Date Introduced: March 06, 2019

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Section 6-13-12 of the General Laws in Chapter 6-13 entitled "Unfair Sales Practices" is hereby amended to read as follows:

6-13-12. Sales of gift certificates.

(a) "Gift certificate" means a record evidencing a promise, made for monetary consideration, by the seller or issuer for the record that goods or services will be provided to the owner of the record to the value shown in the record and includes, but is not limited to: (1) A record that contains a microprocessor chip, magnetic strip, or other means of storage of information that is pre-funded and for which the value is decremented upon each use; (2) A gift card, an electronic gift card, stored-value card or certificate; (3) A store card; (4) Prepaid long-distance telephone service that is activated by a prepaid card that requires dialing an access number or an access code for each call in addition to dialing the phone number to which the user of the prepaid card seeks to connect; or (5) A similar record or card. Any person, firm, or corporation that sells gift certificates for any product or merchandise sold by the person, firm, or corporation, shall be required to record the sales and keep an accurate and complete record of each gift certificate sold. The record shall include the date of sale; the full value of the certificate; the identification number assigned by the retailer to the certificate; and the state in which the sale of the certificate took place. The retailer shall further be required to give to the purchaser of gift certificates exceeding fifty dollars ($50.00) a written and numbered receipt evidencing the sale of
the certificate. It shall be unlawful for any person, firm, or corporation of any kind to charge any
surcharge or additional monthly or annual service or maintenance fees on gift certificates or to
limit the time for the redemption of a gift certificate or to place an expiration date upon the gift
certificate. No gift certificate or any agreement with respect to such gift certificate may contain
language suggesting that an expiration date may apply to the gift certificate. Any person, firm, or
corporation that shall violate the provisions of this section shall be punished by a fine of not more
than two hundred dollars ($200). Due to the unlimited redemption period, the division of taxation
shall not escheat the funds paid for those unredeemed gift certificates. Any unused portion of a
redeemed gift certificate shall be afforded to the consumer by reissuing the gift certificate for the
unused amount or providing cash where the balance due the consumer is less than one dollar
($1.00). This section shall not apply to the following:

(a)(1) Gift certificates that are distributed to a consumer pursuant to an awards, loyalty,
or promotional program without any money or other thing of value being given in exchange for
the gift certificate by the consumer. Any restrictions or limitations that such gift certificates may
be subject to must be disclosed to the consumer, in writing, at the time the gift certificates are
distributed to the consumer.

(a)(2) Prepaid wireless telephone service or prepaid wireless telephone card. “Prepaid
wireless telephone service” means wireless telephone service that is activated in advance by
payment for a finite dollar amount of service or for a finite set of minutes that terminate either
upon use by a customer and delivery by the wireless provider of an agreed-upon amount of
service corresponding to the total dollar amount paid in advance or within a certain period of time
following the initial purchase or activation, unless additional payments are made.

(a)(3) Gift cards or prepaid or store value cards that are issued by state-chartered
financial institutions and credit unions or that are issued by third-party issuers usable at multiple,
unaffiliated merchants or service providers; provided that said financial institutions, credit unions,
or third-party issuers comply with the guidelines on disclosure and marketing as published by the
office of the comptroller of the currency.

(b) A gift certificate as defined in subsection (a) of this section, constitutes value held in
trust by the issuer of the gift certificate on behalf of the beneficiary of the gift certificate. The
value represented by a gift certificate belongs to the beneficiary, or to the legal representative of
the beneficiary to the extent provided by law, and not to the issuer. As such, issuers are required
to deposit and hold funds in an escrow account until the gift certificate is redeemed or for a period
of three (3) years, whichever occurs first.

(c) The terms of a gift certificate may not make its redemption or other use invalid in the
1 event of a bankruptcy.

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
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This act would require issuers of gift certificates to deposit and hold funds used to purchase the gift certificate in escrow for three (3) years, or until the gift certificate is redeemed and would restrict certain redemption terms in the event of bankruptcy.

This act would take effect upon passage.