
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 applies to both issuers and sellers of
9 prepaid stored value products and sets minimum fees, expiration
10 limits on prepaid products, and requires certain disclosures to
11 consumers in connection with fees and expiration dates.
12 Notably, the Credit CARD Act of 2009 does not apply to
13 traditional paper gift certificates, but generally would apply
14 to plastic cards and other payment codes or devices, including
15 standard gift cards as well as so-called "open-loop" prepaid
16 cards, such as those commonly issued by banks and usable over
17 Visa, MasterCard, American Express, Discover, or similar payment
18 networks.



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

- 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) Gift cards must remain valid for at least five years;
8 and
- 9 (4) Permitted fees and expiration dates must be
10 conspicuously disclosed.

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

17 The legislature further finds that it is in the best
18 interests of consumers in the State of Hawaii to adopt some of
19 the key provisions of the Credit CARD Act of 2009. The purpose
20 of this Act is to adopt these protections in Hawaii's laws.

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 years from the date~~
6 ~~of issuance]~~. A certificate issuer shall not charge a service
7 fee, including but not limited to a service fee for dormancy or
8 inactivity. Any activation or issuance fee charged shall not
9 exceed the lesser of ten per cent of the face value of the
10 certificate or \$5.

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

19 ~~[(c) Gift certificates that are issued as part of an~~
20 ~~awards, loyalty, or promotional program, or to a not for profit~~
21 ~~charity organization, where no money or anything of value is~~
22 ~~given to the issuer by the consumer in exchange for the gift~~



1 ~~certificate, are exempt from this section; provided that the~~
2 ~~expiration date, if any, appears on the gift certificate or~~
3 ~~accompanying printed receipt.~~

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

7 [(e)] (d) As used in this section, unless the context
8 requires otherwise:

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

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



1 "certificate" does not include a card, certificate, or other
2 medium that is:

- 3 (1) Used solely for telephone services;
- 4 (2) Reloadable and not marketed or labeled as a gift card,
5 gift certificate, or certificate;
- 6 (3) A loyalty, award, or promotional gift card;
- 7 (4) Not marketed to the general public; or
- 8 (5) Redeemable solely for admission to events or venues at
9 a particular location or group of affiliated
10 locations, which may also include services or goods
11 obtainable:
 - 12 (A) At the event or venue after admission; or
 - 13 (B) In conjunction with admission to such events or
14 venues, at specific locations affiliated with and
15 in geographic proximity to the event or venue.

16 "Service fee" means a periodic fee, charge, or penalty for
17 holding or use of a gift certificate, but does not include a
18 one-time initial activation or issuance fee."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect on July 1, 2010.

Report Title:

Gift Certificates

Description:

Extends the minimum expiration period for gift certificates from two to five years; limits the imposition of issuance or activation fees; amends the definition of "gift certificate;" defines "service fee" to exclude activation or issuance fees.
(SD1)

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