

HB3703



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3703

Introduced 2/25/2009, by Rep. Harry Osterman

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2SS

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that any value remaining after the expiration date on a gift certificate issued by a nonprofit organization shall revert back to the nonprofit organization.

LRB096 09869 KTG 20032 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2SS as follows:

6 (815 ILCS 505/2SS)

7 Sec. 2SS. Gift certificates.

8 (a) "Gift certificate" means a record evidencing a promise,
9 made for consideration, by the seller or issuer of the record
10 that goods or services will be provided to the holder of the
11 record for the value shown in the record and includes, but is
12 not limited to, a record that contains a microprocessor chip,
13 magnetic stripe or other means for the storage of information
14 that is prefunded and for which the value is decremented upon
15 each use, a gift card, an electronic gift card, stored-value
16 card or certificate, a store card or a similar record or card.
17 For purposes of this Act, the term "gift certificate" does not
18 include any of the following:

19 (i) prepaid telecommunications and technology cards
20 including, but not limited to, prepaid telephone calling
21 cards, prepaid technical support cards, and prepaid
22 Internet disks that are distributed to or purchased by a
23 consumer;

1 (ii) prepaid telecommunications and technology cards
2 including, but not limited to, prepaid telephone calling
3 cards, prepaid technical support cards, and prepaid
4 Internet disks that are provided to a consumer pursuant to
5 any award, loyalty, or promotion program without any money
6 or other thing of value being given in exchange for the
7 card; or

8 (iii) any gift certificate usable with multiple
9 sellers of goods or services.

10 (b) On or after January 1, 2008, no person shall sell a
11 gift certificate that is subject to: (1) an expiration date
12 earlier than 5 years after the date of issuance; or (2) a
13 post-purchase fee. Any gift certificate issued prior to January
14 1, 2008 that is subject to a fee must contain a statement
15 clearly and conspicuously printed on the gift certificate
16 stating whether there is a fee, the amount of the fee, how
17 often the fee will occur, that the fee is triggered by
18 inactivity of the gift certificate, and at what point the fee
19 will be charged. The statement may appear on the front or back
20 of the gift certificate in a location where it is visible to
21 any purchaser prior to the purchase.

22 (c) The face value of a gift certificate issued on or after
23 January 1, 2008 may not be reduced in value and the holder of a
24 gift certificate issued after January 1, 2008 may not be
25 penalized in any way for non-use or untimely redemption of the
26 gift certificate. Any gift certificate issued prior to January

1 1, 2008 that is subject to an expiration date must contain a
2 statement clearly and conspicuously printed on the gift
3 certificate stating the expiration date. The statement may
4 appear on the front or back of the gift certificate in a
5 location where it is visible to any purchaser prior to the
6 purchase.

7 (d) Subsection (c) does not apply to any gift certificate
8 issued prior to January 1, 2008 that contains a toll free phone
9 number and a statement clearly and conspicuously printed on the
10 gift certificate stating that holders can call the toll free
11 number to find out the balance on the gift certificate, if
12 applicable, and the expiration date. The toll free number and
13 statement may appear on the front or back of the gift
14 certificate in a location where it is visible to any purchaser
15 prior to the purchase.

16 (d-5) Any value remaining after the expiration date on a
17 gift certificate issued by a nonprofit organization shall
18 revert back to the nonprofit organization.

19 (e) This Section does not apply to any of the following
20 gift certificates:

21 (i) Gift certificates that are distributed by the
22 issuer to a consumer pursuant to an awards, loyalty, or
23 promotional program without any money or thing of value
24 being given in direct exchange or solely for the gift
25 certificate by the consumer.

26 (ii) Gift certificates that are sold below face value

1 at a volume discount to employers or to nonprofit and
2 charitable organizations for fundraising purposes if the
3 expiration date on those gift certificates is not more than
4 30 days after the date of sale. Any value remaining after
5 the expiration date on a gift certificate issued by a
6 nonprofit organization shall revert back to the nonprofit
7 organization.

8 (iii) Gift certificates that are issued for a food
9 product.

10 (Source: P.A. 95-331, eff. 8-21-07; 95-525, eff. 1-1-08.)