

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 1638

An act relating to gift certificates and similar credit items; creating s. 501.95, F.S.; defining the terms “credit memo” and “gift certificate”; prohibiting a gift certificate or credit memo sold or issued for consideration in this state from having an expiration date, expiration period, or any type of postsale charge or fee imposed on the gift certificate or credit memo; providing certain exceptions; creating s. 717.1045, F.S.; providing that the holder of an unredeemed gift certificate or credit memo is not required to report the unredeemed gift certificate or credit memo as unclaimed property to the Department of Financial Services; providing that the consideration paid for an unredeemed gift certificate or credit memo is the property of the issuer, subject only to any rights of a purchaser or owner, and is not subject to a claim made by any state acting on behalf of a purchaser or owner; requiring that a gift certificate or credit memo be reported as unclaimed property; providing legislative intent; providing the consideration paid for the gift certificate or credit memo is the property of the owner of the gift certificate or credit memo; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.95, Florida Statutes, is created to read:

501.95 Gift certificates and credit memos.—

(1) As used in this section, the term:

(a) “Credit memo” means a certificate, card, stored value card, or similar instrument issued in exchange for returned merchandise when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction.

(b) “Gift certificate” means a certificate, gift card, stored value card, or similar instrument issued in exchange for monetary consideration when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction, but this term shall not include tickets as specified in s. 717.1355.

(2)(a) A gift certificate or credit memo sold or issued for consideration in this state may not have an expiration date, expiration period, or any type of postsale charge or fee imposed on the gift certificate or credit memo, including, but not limited to, service charges, dormancy fees, account maintenance fees, or cash-out fees. However, a gift certificate may have an expiration date of not less than 3 years if it is provided as a charitable contribution when no consideration is given to the issuer by the consumer, or not less

than 1 year if it is provided as a benefit pursuant to an employee-incentive program, consumer-loyalty program, or promotional program when no consideration is given to the issuer by the consumer, and the expiration date is prominently disclosed in writing to the consumer at the time it is provided. In addition, a gift certificate may have an expiration date if it is provided as part of a larger package related to a convention, conference, vacation, or sporting or fine arts event having a limited duration so long as the majority of the value paid by the recipient is attributable to the convention, conference, vacation, or event. An issuer may honor a gift certificate that has expired on or before the effective date of this act.

(b) Paragraph (a) does not apply to a gift certificate or credit memo sold or issued by a financial institution, as defined in s. 655.005, or by a money transmitter, as defined in s. 560.103, if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants.

Section 2. Section 717.1045, Florida Statutes, is created to read:

717.1045 Gift certificates and similar credit items.—Notwithstanding s. 717.117, an unredeemed gift certificate or credit memo as defined in s. 501.95 is not required to be reported as unclaimed property.

(1) The consideration paid for an unredeemed gift certificate or credit memo is the property of the issuer of the unredeemed gift certificate or credit memo.

(2) An unredeemed gift certificate or credit memo is subject only to any rights of a purchaser or owner thereof and is not subject to a claim made by any state acting on behalf of a purchaser or owner.

(3) It is the intent of the Legislature that this section apply to the custodial holding of unredeemed gift certificates and credit memos.

(4) However, a gift certificate or credit memo described in s. 501.95(2)(b) shall be reported as unclaimed property. The consideration paid for such a gift certificate or credit memo is the property of the owner of the gift certificate or credit memo.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 28, 2007.

Filed in Office Secretary of State June 28, 2007.