

Legislative Analysis



UNCLAIMED PROPERTY: GIFT CARDS AND CERTIFICATES

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Senate Bill 388

Sponsor: Sen. Nancy Cassis

House Committee: Commerce

Senate Committee: Commerce and Tourism

Complete to 10-12-07

A SUMMARY OF SENATE BILL 388 AS PASSED BY THE SENATE 6-13-07

Senate Bill 388 would amend the Uniform Unclaimed Property Act (MCL 567.222 et al.) to address when a gift certificate or gift card is considered abandoned property.

The Uniform Unclaimed Property Act, generally speaking, establishes a system whereby the state becomes the perpetual custodian of abandoned or unclaimed property until the property owner claims the property (or the value of the property), which the property owner, or an heir, can do at any time.

The bill contains the following provisions.

** The act would not apply to gift certificates and gift cards if no inactivity fee or similar service fee is assessed against the certificate or card.

(A companion bill, Senate Bill 387, would prohibit charging an inactivity fee or similar fee to a consumer for not using a gift certificate or card, although this would not apply to cards and certificates issued by *financial institutions* and cards and certificates usable at *multiple sellers of goods and services*. As a result of the two bills taken together, cards and certificates issued by single sellers of goods and services --e.g., Meijer Stores--would not be subject to the Uniform Unclaimed Property Act.)

** A gift card or certificate, other than those described above, would be presumed abandoned if either (1) it was not claimed or used for a period of five years or more after becoming payable or distributable; or (2) it was claimed or used one or more times without exhausting its full value and subsequently was not claimed or used for an uninterrupted period of five years.

Senate Bill 388 is tie-barred to Senate Bill 387, which would amend the Michigan Consumer Protection Act (MCL 445.903) to do the following:

-- Prohibit as an unfair trade practice (1) issuing a gift certificate or card that expired in less than five years; (2) failing to disclose the expiration date conspicuously on the gift certificate or card, if it had an expiration date; (3) failing to honor a gift certificate or card

before it expired; or (4) charging a fee if a consumer did not use a gift certificate or card (an inactivity fee).

-- Specify that the term "gift certificate or gift card" would not include a card or certificate issued by a financial institution or one that was usable at multiple sellers of goods or services.

Both Senate Bill 387 and 388 contain effective dates of April 1, 2008.

(Note: House Bills 4050, 4317, and 4680 also amend the Michigan Consumer Protection Act to address the same issue as Senate Bill 387.)

FISCAL IMPACT:

Senate Bill 388 would have no significant fiscal impact on the state.

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