

By: Allen, Davis of Dallas

H.B. No. 1007

Substitute the following for H.B. No. 1007:

By: Turner of Harris

C.S.H.B. No. 1007

A BILL TO BE ENTITLED

AN ACT

relating to the expiration and abandonment of a stored value card.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 604, Business & Commerce Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PROHIBITED RESTRICTIONS

Sec. 604.151. EXPIRATION OF STORED VALUE CARD PROHIBITED.

A person may not issue or sell a stored value card that provides that the card expires after a certain date. A condition providing for the expiration of a stored value card is void.

SECTION 2. Sections 604.002, 604.051, 604.101, 604.102, and 604.103, Business & Commerce Code, are amended to read as follows:

Sec. 604.002. INAPPLICABILITY OF CHAPTER. This chapter does not apply to a stored value card that:

(1) is issued by:

(A) a financial institution acting as a financial agent of the United States or this state;

(B) a federally insured financial institution, as defined by Section 201.101, Finance Code, if the financial institution is primarily liable for the card as the issuing principal; or

(C) an air carrier holding a certificate of public convenience and necessity under Title 49, United States Code;

1           (2) is issued as a prepaid calling card by a prepaid  
2 calling card company regulated under Section 55.253, Utilities  
3 Code;

4           (3) is distributed by the issuer to a person under an  
5 awards, rewards, loyalty, incentive, rebate, or promotional  
6 program and is not issued or reloaded in exchange for money tendered  
7 by the cardholder; or

8           (4) is sold below face value or donated to:

9                   (A) an employee of the seller or issuer;

10                   (B) a nonprofit or charitable organization; or

11                   (C) an educational institution for fund-raising  
12 purposes [~~or~~

13                   ~~(5) does not expire and for which the seller does not~~  
14 ~~charge a fee other than a fee described in Section 604.051].~~

15           Sec. 604.051. FEES AND CHARGES RELATED TO ISSUANCE AND  
16 HANDLING OF CARD. If disclosed as required by Subchapter C, the  
17 issuer of a stored value card may impose and collect a reasonable:

18                   (1) handling fee in connection with the issuance of or  
19 adding of value to the card;

20                   (2) access fee for a card transaction conducted at an  
21 unmanned teller machine, as defined by Section 59.301, Finance  
22 Code; and

23                   (3) reissue or replacement charge if a [~~an expired or~~  
24 lost card is reissued or replaced.

25           Sec. 604.101. REQUIRED DISCLOSURE OF CERTAIN MATTERS  
26 APPLICABLE TO CARD. A [~~An expiration date or~~] policy, fee, or other  
27 material restriction or contract term applicable to a stored value

1 card must be clearly and conspicuously disclosed at the time the  
2 card is sold or issued to a person to enable the person to make an  
3 informed decision before purchasing the card.

4       Sec. 604.102. REQUIRED PRINTING OF CERTAIN DISCLOSURES. In  
5 addition to the disclosure required under Section 604.101, a  
6 disclosure regarding [~~the expiration of a stored value card or~~] a  
7 periodic fee that reduces the unredeemed value of a stored value  
8 card must be legibly printed on the card.

9       Sec. 604.103. VALIDITY OF CARD SOLD WITHOUT REQUIRED  
10 DISCLOSURES. A stored value card sold without the disclosure  
11 required by this subchapter of a [~~an expiration date or~~] policy,  
12 fee, or other material restriction or contract term applicable to  
13 the card is valid until redeemed or replaced.

14       SECTION 3. Section 72.1016, Property Code, is amended by  
15 amending Subsections (a) and (b) and adding Subsection (g) to read  
16 as follows:

17       (a) This section applies to a stored value card, as defined  
18 by Section 604.001, Business & Commerce Code, other than a card:

19               (1) to which Chapter 604, Business & Commerce Code,  
20 does not apply by operation of Sections 604.002(1)(A) and (C) and  
21 604.002(2)-(4) [~~604.002(2)-(5)~~] of that code; or

22               (2) that is linked to and draws its value solely from a  
23 deposit account subject to Chapter 73.

24       (b) If the existence and location of the owner of a stored  
25 value card is unknown to the holder of the property, the stored  
26 value card is presumed abandoned to the extent of its unredeemed and  
27 uncharged value on the earlier of:

1           (1) [~~the card's expiration date,~~  
2           [~~(2)~~] the third anniversary of the date the card was  
3 issued, if the card is not used after it is issued, or the date the  
4 card was last used or value was last added to the card; or

5           (2) [~~(3)~~] the first anniversary of the date the card  
6 was issued, if the card is not used after it is issued, or the date  
7 the card was last used or value was last added to the card, if the  
8 card's value represents wages, as defined by Section 61.001, Labor  
9 Code.

10          (g) A holder of unclaimed value on a stored value card  
11 delivered to the comptroller under Chapter 74 shall honor the  
12 unclaimed value of the card and may request, in a form prescribed by  
13 the comptroller, reimbursement from the comptroller for an amount  
14 equal to the value honored by the holder. The comptroller shall  
15 provide reimbursement to the holder in an amount equal to the value  
16 of a stored value card that is delivered and subsequently honored by  
17 the holder. The comptroller shall adopt rules to administer this  
18 subsection.

19          SECTION 4. The changes in law made by this Act apply only to  
20 the issuance or sale of a stored value card on or after the  
21 effective date of this Act. The issuance or sale of a stored value  
22 card before the effective date of this Act is governed by the law in  
23 effect when the card was issued or sold, and the former law is  
24 continued in effect for that purpose.

25          SECTION 5. This Act takes effect September 1, 2009.