

By: Chavez

H.B. No. 1771

A BILL TO BE ENTITLED

AN ACT

relating to the reduction in value or abandonment of stored value cards.

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

SECTION 1. Section 604.002, Business & Commerce Code, is 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;

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

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

1 by the cardholder;

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

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

4 (B) a nonprofit or charitable organization; or

5 (C) an educational institution for fund-raising  
6 purposes; or

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

9 SECTION 2. The heading to Subchapter B, Chapter 604,  
10 Business & Commerce Code, is amended to read as follows:

11 SUBCHAPTER B. [~~PERMISSIBLE~~] FEES PROHIBITED

12 SECTION 3. Section 604.051, Business & Commerce Code, is  
13 amended to read as follows:

14 Sec. 604.051. FEES AND CHARGES ASSOCIATED WITH [~~RELATED TO~~  
15 ~~ISSUANCE AND HANDLING OF~~] CARD PROHIBITED. The [~~If disclosed as~~  
16 ~~required by Subchapter C, the~~] issuer of a stored value card may not  
17 impose or [~~and~~] collect a fee associated with a stored value card,  
18 including [~~reasonable~~]:

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

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

24 (3) a reissue or replacement charge if an expired or  
25 lost card is reissued or replaced; or

26 (4) a periodic fee or other charge that causes the  
27 unredeemed balance of the card to decrease over time.

1 SECTION 4. Section 604.101, Business & Commerce Code, is  
2 amended to read as follows:

3 Sec. 604.101. REQUIRED DISCLOSURE OF CERTAIN MATTERS  
4 APPLICABLE TO CARD. An expiration date, ~~[or]~~ policy, ~~[fee]~~ or  
5 other material restriction or contract term applicable to a stored  
6 value card must be clearly and conspicuously disclosed at the time  
7 the card is sold or issued to a person to enable the person to make  
8 an informed decision before purchasing the card.

9 SECTION 5. Section 604.102, Business & Commerce Code, is  
10 amended to read as follows:

11 Sec. 604.102. REQUIRED PRINTING OF CERTAIN DISCLOSURES. In  
12 addition to the disclosure required under Section 604.101, a  
13 disclosure regarding the expiration of a stored value card ~~[or a~~  
14 ~~periodic fee that reduces the unredeemed value of a stored value~~  
15 ~~card]~~ must be legibly printed on the card.

16 SECTION 6. Section 604.103, Business & Commerce Code, is  
17 amended to read as follows:

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

23 SECTION 7. Section 72.1016(a), Property Code, is amended to  
24 read as follows:

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

27 (1) to which Chapter 604, Business & Commerce Code,

1 does not apply by operation of Sections 604.002(1)(A) and (C) and  
2 604.002(2)-(4) [~~604.002(2)-(5)~~] of that code; or

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

5 SECTION 8. The following provisions are repealed:

6 (1) Section 604.052, Business & Commerce Code; and

7 (2) Section 72.1016(d), Property Code.

8 SECTION 9. The changes in law made by this Act apply only to  
9 a stored value card issued or activated on or after the effective  
10 date of this Act. A stored value card issued or activated before  
11 the effective date of this Act is governed by the law in effect when  
12 the card was issued or activated, and the former law is continued in  
13 effect for that purpose.

14 SECTION 10. This Act takes effect September 1, 2009.