

By: Leibowitz

H.B. No. 3155

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the expiration and abandonment of stored value cards.

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

4 SECTION 1. Section 604.002, Business & Commerce Code, as
5 effective April 1, 2009, is amended to read as follows:

6 Sec. 604.002. INAPPLICABILITY OF CHAPTER. This chapter
7 does not apply to a stored value card [~~that~~]:

8 (1) that is issued by:

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

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

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

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

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

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

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

3 (B) a nonprofit or charitable organization; or

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

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

8 SECTION 2. The heading to Subchapter B, Chapter 604,
9 Business & Commerce Code, as effective April 1, 2009, is amended to
10 read as follows:

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

12 SECTION 3. Section 604.051, Business & Commerce Code, as
13 effective April 1, 2009, is 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, as
2 effective April 1, 2009, is 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, as
10 effective April 1, 2009, is 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, as
17 effective April 1, 2009, is 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 the earlier of the date the card:

23 (1) expires as provided by Section 604.104; or

24 (2) is redeemed or replaced.

25 SECTION 7. The heading to Subchapter C, Chapter 604,
26 Business & Commerce Code, as effective April 1, 2009, is amended to
27 read as follows:

1 SUBCHAPTER C. STORED VALUE CARD REQUIREMENTS [~~REQUIRED~~
2 DISCLOSURES]

3 SECTION 8. Subchapter C, Chapter 604, Business & Commerce
4 Code, as effective April 1, 2009, is amended by adding Section
5 604.104 to read as follows:

6 Sec. 604.104. EXPIRATION OF STORED VALUE CARD. A stored
7 value card expires on the earlier of:

- 8 (1) the third anniversary of the date the card was
9 issued or sold; or
- 10 (2) the card's expiration date.

11 SECTION 9. Sections 72.1016(a) and (b), Property Code, are
12 amended to read as follows:

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

- 15 (1) to which Chapter 604, Business & Commerce Code,
16 does not apply by operation of Sections 604.002(1)(A) and (C) and
17 604.002(2)-(4) [~~604.002(2)-(5)~~] of that code; or
- 18 (2) that is linked to and draws its value solely from a
19 deposit account subject to Chapter 73.

20 (b) The [~~If the existence and location of the owner of a~~
21 ~~stored value card is unknown to the holder of the property, the~~]
22 stored value card is presumed abandoned to the extent of its
23 unredeemed and uncharged value on the earlier of:

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

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

6 SECTION 10. The following provisions are repealed:

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

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

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

15 SECTION 12. This Act takes effect September 1, 2009.