



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Sub. H.B. 353

132nd General Assembly
(As Passed by the General Assembly)

Reps. Reineke, Dever, Sprague, Anielski, Antonio, Barnes, Cupp, Ginter, Green, Greenspan, Hambley, Henne, Householder, T. Johnson, Keller, Landis, Lang, Lepore-Hagan, McClain, Perales, Riedel, Rogers, Romanchuk, Ryan, Seitz, Sheehy, K. Smith, R. Smith, Stein, Strahorn, Sweeney, Thompson, West, Young

Sens. Beagle, Burke, Dolan, Eklund, Hackett, Hoagland, Huffman, Oelslager, Wilson

Effective date: January 22, 2019

ACT SUMMARY

- Exempts from Ohio's Unclaimed Funds Law certain open-loop prepaid cards, closed-loop prepaid cards, and rewards cards.
 - Expands an exemption from the Unclaimed Funds Law regarding gift certificates, gift cards, and merchandise credit cards to include an "obligation" due a retail customer, not just a credit, and requires that the gift certificate or card be redeemable for "goods and services" rather than "merchandise."
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CONTENT AND OPERATION

Unclaimed Funds Law overview

The Division of Unclaimed Funds in the Department of Commerce is responsible for administering the Unclaimed Funds Law, under which certain inactive accounts are to be treated as unclaimed funds by the financial institutions or other entities that hold them. The time period that must pass before funds are considered "unclaimed" varies depending on the type of funds. Holders of unclaimed funds must provide notice at the last known address to apparent owners of the funds, and must submit an annual report of unclaimed funds to the Director of Commerce. The Department is required to publish

* This version updates the effective date.

the names and addresses of apparent owners of unclaimed funds in a newspaper of general circulation in order to help notify individuals that they have funds available to claim.¹

"Unclaimed funds" generally are defined as moneys and property for which the owner, within a specified period of time, has not done any of the following:

- (1) Increased, decreased, or adjusted the amount of the funds;
- (2) Assigned, paid premiums, or encumbered the funds;
- (3) Presented an appropriate record for the crediting of the funds or received payment of the funds;
- (4) Corresponded with the holder concerning the funds;
- (5) Otherwise indicated an interest in or knowledge of the funds;
- (6) Transacted business with the holder.²

Continuing law, largely unchanged by the act, exempts from the Unclaimed Funds Law: (1) unclaimed public money, (2) business to business transactions, (3) payroll checks of \$50 or less, and (4) credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, redeemable only for merchandise.³

The act expands this list of exemptions to include certain open-loop prepaid cards, closed-loop prepaid cards, and rewards cards. The act also modifies the exemption described in number (4), above.

Exemptions from the Unclaimed Funds Law

Open-loop prepaid cards

The act exempts from the Unclaimed Funds Law any open-loop prepaid card issued by a financial organization or a business association for which the underlying funds do not expire. Under the act, an *open-loop prepaid card* is an electronic payment device that (1) is purchased or loaded on a prepaid basis for the future purchase or delivery of any goods or services, (2) can be used to purchase goods and services at *multiple unaffiliated* merchants or service providers, and (3) is not redeemable for cash in

¹ R.C. Chapter 169.

² R.C. 169.01(B)(1).

³ R.C. 169.01(B)(2); R.C. 169.02, not in the act.



whole or in part. For purposes of the act, *business association* means any business entity composed of one or more individuals, whether or not it is for profit.⁴

Gift certificates, gift cards, and closed-loop prepaid cards

The act retains the exemption for any credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, but adds that this exemption can be for any *obligation* due a retail customer – not just credit. It also specifies that the credit or obligation must be redeemable only for *goods or services*, including gift cards issued by financial organizations or business associations. Under prior law, the credit had to be redeemable only for "merchandise."⁵

In addition, the act exempts any electronic payment device issued by a financial organization or a business association that has no expiration date and is (1) purchased or loaded on a prepaid basis for the future purchase or delivery of goods or services, (2) redeemable upon presentation to a *single* merchant or service provider or an *affiliated group* of merchants or service providers, and (3) not redeemable for cash in whole or in part.⁶

Rewards cards

Lastly, the act exempts any rewards card. A *rewards card* includes any loyalty, incentive, or promotional type program issued by a financial organization or a business association, whether represented by a card or electronic record. The program must have been established for the purpose of providing awards, rebates, or other amounts to reward the cardholder for his or her relationship with the rewards card sponsor, provided that direct money was not paid by the cardholder for the rewards card. The act states that a minimal annual fee charged to the cardholder for joining the loyalty, incentive, or promotional type program is not to be considered "direct money paid by the cardholder."

Rewards card includes:

- Cards or electronic records consisting of points, cash, or other tokens of value given to a cardholder as a reward or incentive for engaging in a transaction or a series of transactions; and

⁴ R.C. 169.01(B)(2)(e).

⁵ R.C. 169.01(B)(2)(d)(i).

⁶ R.C. 169.01(B)(2)(d)(ii).



- The unpaid portion of a rewards card when the rewards card is partially loaded by the cardholder with the remaining portion funded as a reward or incentive.

Cardholder means the holder of a rewards card, regardless of whether the rewards card is represented by a card or by an electronic record.⁷

HISTORY

ACTION	DATE
Introduced	09-20-17
Reported, H. Financial Institutions, Housing, & Urban Development	12-12-17
Passed House (96-0)	01-17-18
Reported, S. Finance	05-23-18
Passed Senate (29-2)	09-25-18

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⁷ R.C. 169.01(B)(2)(f).

