



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **Sub. H.B. 353**

132nd General Assembly  
(As Passed by the House)

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

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## **BILL SUMMARY**

- Exempts from Ohio's Unclaimed Funds Law (1) certain open-loop prepaid cards, (2) rewards cards, and (3) certain electronic payment devices purchased or loaded on a prepaid basis and redeemable to a single merchant or service provider or an affiliated group of merchants or service providers.
  - Expands an existing gift certificate exemption from the Unclaimed Funds Law to include an "obligation" due a retail customer, not just a credit, and specifies that the gift certificate be redeemable only for "goods and services" rather than merchandise.
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## **CONTENT AND OPERATION**

### **Unclaimed Funds Law overview**

Ohio's Unclaimed Funds Law, in part, (1) specifies the types of funds that – after a certain period of time – are to be declared "unclaimed," (2) requires holders of such funds to report to the Director of Commerce specified information regarding these funds, give notice to the owners or beneficiaries of the funds, and pay a portion of the funds to the Director, and (3) requires the Director to annually publish a notice of the unclaimed funds in the appropriate county for the purpose of notifying the owners or beneficiaries of the funds' existence and facilitating their reclamation.<sup>1</sup> "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:

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<sup>1</sup> R.C. Chapter 169.

- (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.<sup>2</sup>

Unclaimed funds that are paid to the Director do not become the property of the state, but rather are held by the state in the Unclaimed Funds Trust Fund until the owner claims them. However, the Director may use unclaimed funds in the Trust Fund for purposes of paying administrative expenses.<sup>3</sup>

Existing law provides four exemptions from the Unclaimed Funds Law: (1) unclaimed public money, (2) business to business transactions, (3) payroll checks of less than \$50, 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.<sup>4</sup>

The bill expands this list of exemptions to include certain open-loop prepaid cards, rewards cards, and certain electronic payment devices redeemable to a single merchant or service provider or an affiliated group of merchants or service providers. The bill also modifies the existing gift certificate exemption in number (4), above.

## **Exemptions from the Unclaimed Funds Law**

### **Open-loop prepaid cards**

The bill exempts from the Unclaimed Funds Law any open-loop prepaid card that is issued by a financial organization or a business association for which the underlying funds do not expire. Under the bill, 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 whole or in part. For purposes of the bill, "business association"

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<sup>2</sup> R.C. 169.01(B)(1).

<sup>3</sup> R.C. 169.05, not in the bill.

<sup>4</sup> R.C. 169.01(B)(2) ; R.C. 169.02, not in the bill.



includes any business entity composed of one or more individuals, whether or not it is for profit.<sup>5</sup>

### **Gift certificates, gift cards, and electronic payment devices**

The bill retains the existing exemption from the Unclaimed Funds Law 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. The bill 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 existing law, the credit must be redeemable only for "merchandise."<sup>6</sup>

In addition, the bill exempts from the Unclaimed Funds Law any electronic payment device that is 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.<sup>7</sup>

### **Rewards cards**

Lastly, the bill exempts any rewards card from the Unclaimed Funds Law. A *rewards card* includes any loyalty, incentive, or promotional type program that is 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 the cardholder awards, rewards, 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. In this context, "cardholder" means the holder of a rewards card, regardless of whether the rewards card is represented by a card or by an electronic record. And a minimal annual fee charged to the cardholder for joining any such loyalty, incentive, or promotional type program is not to be considered "direct money paid by the cardholder."

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<sup>5</sup> R.C. 169.01(B)(2)(e).

<sup>6</sup> R.C. 169.01(B)(2)(d)(i).

<sup>7</sup> R.C. 169.01(B)(2)(d)(ii).



*Rewards card* includes both of the following:

- 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
- 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.<sup>8</sup>

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## HISTORY

ACTION	DATE
Introduced	09-20-17
Reported, H. Financial Institutions, Housing, & Urban Development	12-12-17
Passed House (96-0)	01-17-18

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<sup>8</sup> R.C. 169.01(B)(2)(f).

