
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 552 Session of
2005

INTRODUCED BY STERN, CORRIGAN, GEORGE, YOUNGBLOOD, GEIST,
SATHER, THOMAS, CLYMER, WATSON, FABRIZIO, HENNESSEY,
GODSHALL, NAILOR, DENLINGER, HUTCHINSON, READSHAW,
BENNINGHOFF, PHILLIPS, SAINATO, GOODMAN, W. KELLER,
HICKERNELL, ROSS, TURZAI, SHANER, GINGRICH, WANSACZ,
CRAHALLA, MACKERETH, HERMAN, ARMSTRONG, RUBLEY, REICHLEY,
BOYD, PICKETT, BALDWIN, HESS, R. MILLER, MUSTIO, FORCIER,
CALTAGIRONE, HABAY, WILT, MARKOSEK, ROBERTS, R. STEVENSON,
B. SMITH, METCALFE, HERSHEY, SOLOBAY AND CREIGHTON,
FEBRUARY 15, 2005

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 23, 2006

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,
2 as amended, "An act relating to the finances of the State
3 government; providing for the settlement, assessment,
4 collection, and lien of taxes, bonus, and all other accounts
5 due the Commonwealth, the collection and recovery of fees and
6 other money or property due or belonging to the Commonwealth,
7 or any agency thereof, including escheated property and the
8 proceeds of its sale, the custody and disbursement or other
9 disposition of funds and securities belonging to or in the
10 possession of the Commonwealth, and the settlement of claims
11 against the Commonwealth, the resettlement of accounts and
12 appeals to the courts, refunds of moneys erroneously paid to
13 the Commonwealth, auditing the accounts of the Commonwealth
14 and all agencies thereof, of all public officers collecting
15 moneys payable to the Commonwealth, or any agency thereof,
16 and all receipts of appropriations from the Commonwealth,
17 authorizing the Commonwealth to issue tax anticipation notes
18 to defray current expenses, implementing the provisions of
19 section 7(a) of Article VIII of the Constitution of
20 Pennsylvania authorizing and restricting the incurring of
21 certain debt and imposing penalties; affecting every
22 department, board, commission, and officer of the State
23 government, every political subdivision of the State, and
24 certain officers of such subdivisions, every person,

1 association, and corporation required to pay, assess, or
2 collect taxes, or to make returns or reports under the laws
3 imposing taxes for State purposes, or to pay license fees or
4 other moneys to the Commonwealth, or any agency thereof,
5 every State depository and every debtor or creditor of the
6 Commonwealth," FURTHER PROVIDING FOR THE AUTHORITY TO INVEST <—
7 AND REINVEST CERTAIN MONEYS; defining GENERAL USE PREPAID <—
8 CARDS," "gift card," "gift certificate" and "qualified gift
9 certificate"; ~~AND further providing for unclaimed property+~~ <—
10 ~~and providing for contributions to the Low Income Home Energy~~
11 ~~Assistance Program from unclaimed property.~~ AND FOR PROPERTY <—
12 HELD BY COURTS AND PUBLIC OFFICERS AND AGENCIES; AND <—
13 CLARIFYING PROVISIONS RELATING TO NOTICE AND PUBLICATION OF
14 LISTS.

15 THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
16 HEREBY ENACTS AS FOLLOWS:

17 ~~SECTION 1. SECTION 1301.1 OF THE ACT OF APRIL 9, 1929~~ <—
18 ~~(P.L.343, NO.176), KNOWN AS THE FISCAL CODE, IS AMENDED BY~~
19 ~~ADDING DEFINITIONS TO READ:~~

20 SECTION 1. SECTION 301.1(I) OF THE ACT OF APRIL 9, 1929 <—
21 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, AMENDED NOVEMBER
22 30, 2004 (P.L.1725, NO.220), IS AMENDED TO READ:

23 SECTION 301.1. INVESTMENT OF MONEYS.--* * *

24 (I) (1) NOTWITHSTANDING SUBSECTIONS (A) THROUGH (H), THE
25 TREASURY DEPARTMENT SHALL HAVE THE EXCLUSIVE MANAGEMENT AND FULL
26 POWER TO INVEST AND REINVEST THE MONEYS OF ANY FUND AS SHALL BE
27 ACCUMULATED BEYOND THE ORDINARY NEEDS OF THE VARIOUS FUNDS AND
28 WHICH ARE NOT AUTHORIZED BY LAW TO BE INVESTED BY ANY BOARD,
29 COMMISSION OR STATE OFFICER, SUBJECT, HOWEVER, TO THE EXERCISE
30 OF THAT DEGREE OF JUDGMENT AND CARE UNDER THE CIRCUMSTANCES THEN
31 PREVAILING WHICH PERSONS OF PRUDENCE, DISCRETION AND
32 INTELLIGENCE WHO ARE FAMILIAR WITH SUCH MATTERS EXERCISE IN THE
33 MANAGEMENT OF THEIR OWN AFFAIRS NOT IN REGARD TO SPECULATION BUT
34 IN REGARD TO THE PERMANENT DISPOSITION OF THE FUNDS, CONSIDERING
35 THE PROBABLE INCOME TO BE DERIVED THEREFROM AS WELL AS THE
36 PROBABLE SAFETY OF THEIR CAPITAL. THE TREASURY DEPARTMENT SHALL

1 HAVE THE POWER TO HOLD, PURCHASE, SELL, ASSIGN, TRANSFER AND
2 DISPOSE OF ANY SECURITIES, INCLUDING EQUITY SECURITIES AND
3 MUTUAL FUNDS CONSISTING IN WHOLE OR IN PART OF EQUITY
4 SECURITIES, AND INVESTMENTS IN ANY SUCH FUND AS WELL AS THE
5 PROCEEDS OF SUCH INVESTMENTS AND OF THE MONEY BELONGING TO ANY
6 SUCH FUND. THE TREASURY DEPARTMENT SHALL, THROUGH THE GOVERNOR,
7 SUBMIT TO THE GENERAL ASSEMBLY ANNUALLY, AT THE SAME TIME THE
8 TREASURY DEPARTMENT SUBMITS ITS BUDGET COVERING ADMINISTRATIVE
9 EXPENSES, A REPORT IDENTIFYING THE NATURE AND AMOUNT OF ALL
10 EXISTING INVESTMENTS MADE PURSUANT TO THIS SECTION.

11 (2) THE AUTHORITY TO INVEST OR REINVEST THE MONEYS OF ANY
12 FUND PURSUANT TO THIS SUBSECTION SHALL ~~EXPIRE~~ DECEMBER 31, <—
13 ~~2006~~ 2008. THE TREASURY DEPARTMENT MAY MAINTAIN INVESTMENTS <—
14 PURSUANT TO THIS SUBSECTION WHICH ARE IN EXISTENCE ON THE
15 EXPIRATION DATE IN THIS PARAGRAPH FOR NOT MORE THAN TWO YEARS
16 FOLLOWING SUCH EXPIRATION DATE. ~~CONTINUE UNLESS SPECIFICALLY~~ <—
17 ~~REPEALED BY AMENDMENT TO THIS ACT.~~

18 SECTION 2. SECTION 1301.1 OF THE ACT IS AMENDED BY ADDING
19 DEFINITIONS TO READ:

20 Section 1301.1. Definitions.--As used in this article,
21 unless the context otherwise requires:

22 * * *

23 "General use prepaid cards" shall mean cards issued only by a
24 bank or other similarly regulated financial institutions, or by
25 a licensed money transmitter and shall mean plastic cards or
26 other electronic payment devices which are:

27 (1) usable AND HONORED UPON PRESENTATION at multiple, <—
28 unaffiliated merchants or service providers FOR GOODS OR <—
29 SERVICES or at automated teller machines (ATMs); AND <—

30 (2) issued in a requested PREPAID amount which amount may <—

be, at the option of the issuer, increased in value or reloaded
if requested by the holder;

<—

~~(3) purchased or loaded on a prepaid basis by a consumer or~~
~~by a business entity; and~~

~~(4) honored upon presentation by merchants for goods or~~
~~services or at ATMs. HOLDER.~~

<—

The term shall not include debit cards linked to a deposit
account or prepaid telephone calling cards. The term also shall
not include flexible spending arrangements, including health
reimbursement arrangements, as defined in section 106(c)(2) of
the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
§ 106(c)(2)); flexible spending accounts subject to section 125
of the Internal Revenue Code of 1986; Archer MSAs as defined in
section 220(d) of the Internal Revenue Code of 1986; dependent
care reimbursement accounts subject to section 129 of the
Internal Revenue Code of 1986; health savings accounts subject
to section 223(d) of the Internal Revenue Code of 1986; or
similar accounts from which, under the Internal Revenue Code of
1986 and its implementing regulations, individuals may pay
medical expenses, health care expenses, dependent care expenses
or similar expenses on a pretax basis.

"Gift card" shall mean plastic cards or other electronic
payment devices which are:

~~(i) useable at a single merchant or an affiliated group of~~
~~merchants sharing the same name, mark or logo;~~

<—

~~(ii) issued in a specified amount and may or may not be~~
~~increased in value or reloaded;~~

~~(iii) purchased on a prepaid basis by a consumer in exchange~~
~~for payment; and~~

~~(iv) honored upon presentation by such single merchant or~~

1 ~~affiliated group of merchants for goods or services.~~

2 (I) USABLE AND HONORED UPON PRESENTATION AT A SINGLE <—
3 MERCHANT OR AN AFFILIATED GROUP OR MERCHANTS THAT SHARE THE SAME
4 NAME, MARK OR LOGO, OR USABLE AT MULTIPLE, UNAFFILIATED
5 MERCHANTS OR SERVICE PROVIDERS FOR THE FUTURE PURCHASE OR
6 DELIVERY OF ANY GOODS OR SERVICES; AND

7 (II) ISSUED IN A SPECIFIED PREPAID AMOUNT AND MAY OR MAY NOT
8 BE INCREASED IN VALUE OR RELOADED.

9 The term shall not include GENERAL USE PREPAID CARDS OR debit <—
10 cards linked to a deposit account. The term also shall not
11 include flexible spending arrangements including health
12 reimbursement arrangements, as defined in section 106(c)(2) of
13 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
14 § 106(c)(2)); flexible spending accounts subject to section 125
15 of the Internal Revenue Code of 1986; Archer MSAs as defined in
16 section 220(d) of the Internal Revenue Code of 1986; dependent
17 care reimbursement accounts subject to section 129 of the
18 Internal Revenue Code of 1986; health savings accounts subject
19 to section 223(d) of the Internal Revenue Code of 1986; or
20 similar accounts from which, under the Internal Revenue Code and
21 its implementing regulations, individuals may pay medical
22 expenses, health care expenses, dependent care expenses or
23 similar expenses on a pretax basis.

24 "Gift certificate" shall mean a written promise or electronic <—
25 payment device that: WHICH IS: <—

26 (i) ~~is useable~~ USABLE AND HONORED UPON PRESENTATION at a <—
27 single merchant or an affiliated group of merchants that share
28 the same name, mark or logo, or usable at multiple, unaffiliated
29 merchants or service providers: PROVIDERS FOR THE FUTURE <—
30 PURCHASE OR DELIVERY OF ANY GOODS OR SERVICES; AND

~~(ii) is issued in a specified amount;~~

<—

~~(II) ISSUED IN A SPECIFIC PREPAID AMOUNT AND MAY OR MAY NOT
BE INCREASED IN VALUE OR RELOADED.~~

<—

~~(iii) may or may not be increased in value or reloaded;~~

<—

~~(iv) is purchased or loaded on a prepaid basis for the
future purchase or delivery of any goods or services; and~~

~~(v) is honored upon presentation.~~

~~The term shall not include GENERAL USE PREPAID CARDS OR debit
cards linked to a deposit account. The term also shall not~~

<—

~~include flexible spending arrangements, including health
reimbursement arrangements, as defined in section 106(c)(2) of
the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
§ 106(c)(2)); flexible spending accounts subject to section 125
of the Internal Revenue Code of 1986; Archer MSAs as defined in
section 220(d) of the Internal Revenue Code of 1986; dependent
care reimbursement accounts subject to section 129 of the
Internal Revenue Code of 1986; health savings accounts subject
to section 223(d) of the Internal Revenue Code of 1986; or
similar accounts from which, under the Internal Revenue Code and
its implementing regulations, individuals may pay medical
expenses, health care expenses, dependent care expenses or
similar expenses on a pretax basis.~~

~~* * *~~

~~"Qualified gift certificate" shall mean a gift certificate or
gift card that does not contain any of the following:~~

~~(i) An expiration date or a period of time after which it
expires.~~

~~(ii) Any type of postsale charge or fee, including, but not
limited to, a service charge, dormancy fee, account maintenance
fee, cash out fee, replacement card fee or activation or~~

1 reactivation fee.

2 The term ~~does~~ SHALL not include general use prepaid cards. <—

3 * * *

4 Section ~~2~~ 3. Clause 1 of section 1301.6 of the act, amended <—
5 June 29, 2002 (P.L.614, No.91), is amended to read:

6 Section 1301.6. Property Held by Business Associations.--The
7 following property held or owing by a business association is
8 presumed abandoned and unclaimed:

9 1. The consideration paid for a gift certificate or gift
10 card which has remained unredeemed for two (2) years or more
11 after its redemption period has expired or for five (5) years or
12 more from the date of issuance if no redemption period is
13 specified. The provisions of this clause shall not apply to a
14 qualified gift certificate.

15 * * *

16 ~~Section 3. The act is amended by adding a section to read:~~ <—

17 ~~Section 1301.19a. Contributions to LIHEAP from Unclaimed~~
18 ~~Property. (a) The State Treasurer shall promulgate regulations~~
19 ~~allowing any person claiming an interest in any property paid or~~
20 ~~delivered to the Commonwealth under this article to donate the~~
21 ~~total cash value of such property to LIHEAP.~~

22 ~~(b) As used in this section, the term "LIHEAP" shall mean~~
23 ~~the program established by Title XXVI of the Omnibus Budget~~
24 ~~Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 893 et~~
25 ~~seq.) and administered by the Department of Public Welfare.~~

26 ~~Section 3. This act shall take effect in 60 days.~~

27 SECTION 4. SECTION 1301.9 OF THE ACT, AMENDED DECEMBER 23, <—
28 2003 (P.L.243, NO.45), IS AMENDED TO READ:

29 SECTION 1301.9. PROPERTY HELD BY COURTS AND PUBLIC OFFICERS
30 AND AGENCIES.--THE FOLLOWING PROPERTY IS PRESUMED ABANDONED AND

1 UNCLAIMED:

2 1. EXCEPT AS PROVIDED IN [CLAUSE 2 OR 6] CLAUSES 2 AND 2.1
3 OR CLAUSE 6, ALL PROPERTY HELD FOR THE OWNER BY ANY COURT,
4 PUBLIC CORPORATION, PUBLIC AUTHORITY OR INSTRUMENTALITY OF THE
5 UNITED STATES, THE COMMONWEALTH, OR ANY OTHER STATE, OR BY A
6 PUBLIC OFFICER OR POLITICAL SUBDIVISION THEREOF, UNCLAIMED BY
7 THE OWNER FOR MORE THAN FIVE (5) YEARS FROM THE DATE IT FIRST
8 BECAME DEMANDABLE OR DISTRIBUTABLE.

9 2. BICYCLES HELD FOR THE OWNER BY A MUNICIPALITY UNCLAIMED
10 BY THE OWNER FOR MORE THAN NINETY (90) DAYS FROM THE DATE IT
11 FIRST BECAME DEMANDABLE OR DISTRIBUTABLE.

12 2.1. ALL TANGIBLE PROPERTY, OTHER THAN BICYCLES, HELD FOR
13 THE OWNER BY A MUNICIPALITY UNCLAIMED BY THE OWNER FOR MORE THAN
14 THREE (3) YEARS FROM THE DATE IT FIRST BECAME DEMANDABLE OR
15 DISTRIBUTABLE.

16 3. THE BICYCLES HELD PURSUANT TO CLAUSE 2 AND TANGIBLE
17 PROPERTY HELD PURSUANT TO CLAUSE 2.1 AND WHICH THE STATE
18 TREASURER REFUSES IN WRITING TO ACCEPT MAY BE DISPOSED OF BY THE
19 MUNICIPALITY TO THE HIGHEST BIDDER AFTER DUE NOTICE BY
20 ADVERTISEMENT FOR BIDS OR AT PUBLIC AUCTION AT SUCH TIME AND
21 PLACE AS MAY BE DESIGNATED BY THE MUNICIPALITY OR THE GOVERNING
22 BODY MAY, BY RESOLUTION, DONATE THE BICYCLES OR SUCH TANGIBLE
23 PROPERTY TO A CHARITABLE ORGANIZATION. ANY PROCEEDS FROM THE
24 SALE OF THE BICYCLES OR SUCH TANGIBLE PROPERTY SHALL BE RETAINED
25 BY THE MUNICIPALITY AND USED FOR MUNICIPAL PURPOSES.

26 4. BICYCLES HELD BY OR ACQUIRED BY THE COMMONWEALTH FOR
27 NINETY (90) DAYS MAY BE DISPOSED OF AT PUBLIC AUCTION AT SUCH
28 TIME AND PLACE AS MAY BE DESIGNATED BY THE STATE TREASURER.
29 PROCEEDS OF SUCH SALE OR SALES SHALL BE DEPOSITED IN THE GENERAL
30 FUND.

1 5. ALL PROPERTY HELD BY OR SUBJECT TO THE CONTROL OF ANY
2 COURT, PUBLIC CORPORATION, PUBLIC AUTHORITY OR INSTRUMENTALITY
3 OF THE COMMONWEALTH OR BY A PUBLIC OFFICER OR POLITICAL
4 SUBDIVISION THEREOF, WHICH IS WITHOUT A RIGHTFUL OR LAWFUL
5 OWNER, TO THE EXTENT NOT OTHERWISE PROVIDED FOR BY LAW, HELD FOR
6 MORE THAN ONE YEAR.

7 6. RESTITUTION HELD FOR THE OWNER BY ANY COURT, PUBLIC
8 CORPORATION, PUBLIC AUTHORITY OR INSTRUMENTALITY OF THE
9 COMMONWEALTH, OR BY A PUBLIC OFFICER OR POLITICAL SUBDIVISION
10 THEREOF, UNCLAIMED BY THE OWNER FOR MORE THAN FIVE (5) YEARS
11 FROM THE DATE IT FIRST BECAME DEMANDABLE OR DISTRIBUTABLE.

12 SECTION 5. SECTION 1301.12(A) OF THE ACT, AMENDED JUNE 29, <—
13 2002 (P.L.614, NO.91), IS AMENDED TO READ:

14 SECTION 1301.12. NOTICE AND PUBLICATION OF LISTS OF PROPERTY
15 SUBJECT TO CUSTODY AND CONTROL OF THE COMMONWEALTH UNDER THIS
16 ARTICLE.--(A) WITHIN TWELVE (12) MONTHS FROM THE FILING OF THE
17 REPORT REQUIRED BY SECTION 1301.11, THE STATE TREASURER SHALL
18 CAUSE NOTICE TO BE PUBLISHED AT LEAST ONCE IN A LEGAL NEWSPAPER
19 AS WELL AS AN ENGLISH LANGUAGE NEWSPAPER OF GENERAL CIRCULATION
20 IN THE COUNTY IN WHICH THE OWNER OF THE PROPERTY HAD A LAST
21 KNOWN ADDRESS APPEARING FROM THE VERIFIED REPORT FILED BY THE
22 HOLDER OR, IF THERE IS NO NAME OR ADDRESS OR THE OWNER IS NOT A
23 PENNSYLVANIA RESIDENT, THEN AT LEAST ONE TIME IN THE
24 PENNSYLVANIA BULLETIN. NOTICE SHALL ALSO BE POSTED ON THE
25 INTERNET WEBSITE OF THE TREASURY DEPARTMENT.

26 * * *

27 SECTION 4 5 6. THIS ACT SHALL APPLY TO GIFT CARDS AND GIFT <—
28 CERTIFICATES REPORTED TO THE COMMONWEALTH FOR THE YEAR 2006 AND
29 EACH YEAR THEREAFTER.

30 ~~SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.~~ <—

1 SECTION 6 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

2 (1) THE AMENDMENT OF SECTION 1301.9 OF THE ACT SHALL

3 TAKE EFFECT IN 60 DAYS.

4 (2) THE AMENDMENT OF SECTION 1301.12 OF THE ACT SHALL <—

5 TAKE EFFECT JULY 1, 2007.

6 ~~(2)~~ (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT <—

7 IMMEDIATELY.