

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 AND SOLOBAY, FEBRUARY 15, 2005

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JANUARY 24, 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,
25 association, and corporation required to pay, assess, or
26 collect taxes, or to make returns or reports under the laws

1 imposing taxes for State purposes, or to pay license fees or
2 other moneys to the Commonwealth, or any agency thereof,
3 every State depository and every debtor or creditor of the
4 Commonwealth," DEFINING "GIFT CARD," "GIFT CERTIFICATE" AND <—
5 "QUALIFIED GIFT CERTIFICATE"; AND further providing for
6 unclaimed property.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Clause 1 of section 1301.6 of the act of April 9,~~ <—
10 ~~1929 (P.L.343, No.176), known as The Fiscal Code, amended June~~
11 ~~29, 2002 (P.L.641, No.91), is amended to read:~~

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

15 SECTION 1301.1. DEFINITIONS.--AS USED IN THIS ARTICLE,
16 UNLESS THE CONTEXT OTHERWISE REQUIRES:

17 * * *

18 "GIFT CARD" SHALL MEAN PLASTIC CARDS OR OTHER ELECTRONIC
19 PAYMENT DEVICES WHICH ARE:

20 (I) USEABLE AT A SINGLE MERCHANT OR AN AFFILIATED GROUP OF
21 MERCHANTS SHARING THE SAME NAME, MARK OR LOGO;

22 (II) ISSUED IN A SPECIFIED AMOUNT AND MAY OR MAY NOT BE
23 INCREASED IN VALUE OR RELOADED;

24 (III) PURCHASED ON A PREPAID BASIS BY A CONSUMER IN EXCHANGE
25 FOR PAYMENT; AND

26 (IV) HONORED UPON PRESENTATION BY SUCH SINGLE MERCHANT OR
27 AFFILIATED GROUP OF MERCHANTS FOR GOODS OR SERVICES.

28 THE TERM SHALL NOT INCLUDE DEBIT CARDS LINKED TO A DEPOSIT
29 ACCOUNT. THE TERM ALSO SHALL NOT INCLUDE FLEXIBLE SPENDING
30 ARRANGEMENTS INCLUDING HEALTH REIMBURSEMENT ARRANGEMENTS, AS
31 DEFINED IN SECTION 106(C)(2) OF THE INTERNAL REVENUE CODE OF
32 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.

"GIFT CERTIFICATE" SHALL MEAN A WRITTEN PROMISE OR ELECTRONIC PAYMENT DEVICE THAT:

(I) IS USEABLE AT A SINGLE MERCHANT OR AN AFFILIATED GROUP OF MERCHANTS THAT SHARE THE SAME NAME, MARK OR LOGO, OR USEABLE AT MULTIPLE, UNAFFILIATED MERCHANTS OR SERVICE PROVIDERS;

(II) IS ISSUED IN A SPECIFIED AMOUNT;

(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 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

1 INTERNAL REVENUE CODE OF 1986; OR SIMILAR ACCOUNTS FROM WHICH,
2 UNDER THE INTERNAL REVENUE CODE AND ITS IMPLEMENTING
3 REGULATIONS, INDIVIDUALS MAY PAY MEDICAL EXPENSES, HEALTH CARE
4 EXPENSES, DEPENDENT CARE EXPENSES OR SIMILAR EXPENSES ON A
5 PRETAX BASIS.

6 * * *

7 "QUALIFIED GIFT CERTIFICATE" SHALL MEAN A GIFT CERTIFICATE OR
8 GIFT CARD THAT DOES NOT CONTAIN ANY OF THE FOLLOWING:

9 (I) AN EXPIRATION DATE OR A PERIOD OF TIME AFTER WHICH IT
10 EXPIRES.

11 (II) ANY TYPE OF POSTSALE CHARGE OR FEE, INCLUDING, BUT NOT
12 LIMITED TO, A SERVICE CHARGE, DORMANCY FEE, ACCOUNT MAINTENANCE
13 FEE, CASH OUT FEE, REPLACEMENT CARD FEE OR ACTIVATION OR
14 REACTIVATION FEE.

15 * * *

16 SECTION 2. CLAUSE 1 OF SECTION 1301.6 OF THE ACT, AMENDED
17 JUNE 29, 2002 (P.L.614, NO.91), IS AMENDED TO READ:

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

21 1. The consideration paid for a gift certificate or gift
22 card which has remained unredeemed for two (2) years or more
23 after its redemption period has expired or for five (5) years or
24 more from the date of issuance if no redemption period is
25 specified. The provisions of this clause shall not apply to any <—
26 gift certificate or gift card issued by a restaurant A QUALIFIED <—
27 GIFT CERTIFICATE.

28 * * *

29 Section 2 3. This act shall take effect in 60 days. <—