

## 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, HOUSE OF REPRESENTATIVES,  
APRIL 3, 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

collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," defining "gift card," "gift certificate" and "qualified gift certificate"; ~~and~~ further providing for unclaimed property; AND PROVIDING FOR CONTRIBUTIONS TO THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM FROM UNCLAIMED PROPERTY.

<—  
<—

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

Section 1. Section 1301.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended by adding definitions to read:

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

\* \* \*

"GENERAL USE PREPAID CARDS" SHALL MEAN CARDS ISSUED ONLY BY A BANK OR OTHER SIMILARLY REGULATED FINANCIAL INSTITUTIONS, OR BY A LICENSED MONEY TRANSMITTER AND SHALL MEAN PLASTIC CARDS OR OTHER ELECTRONIC PAYMENT DEVICES WHICH ARE:

<—

(1) USABLE AT MULTIPLE, UNAFFILIATED MERCHANTS OR SERVICE PROVIDERS OR AT AUTOMATED TELLER MACHINES (ATMS);

(2) ISSUED IN A REQUESTED 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.

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

1 THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C.  
2 § 106(C)(2)); FLEXIBLE SPENDING ACCOUNTS SUBJECT TO SECTION 125  
3 OF THE INTERNAL REVENUE CODE OF 1986; ARCHER MSAS AS DEFINED IN  
4 SECTION 220(D) OF THE INTERNAL REVENUE CODE OF 1986; DEPENDENT  
5 CARE REIMBURSEMENT ACCOUNTS SUBJECT TO SECTION 129 OF THE  
6 INTERNAL REVENUE CODE OF 1986; HEALTH SAVINGS ACCOUNTS SUBJECT  
7 TO SECTION 223(D) OF THE INTERNAL REVENUE CODE OF 1986; OR  
8 SIMILAR ACCOUNTS FROM WHICH, UNDER THE INTERNAL REVENUE CODE OF  
9 1986 AND ITS IMPLEMENTING REGULATIONS, INDIVIDUALS MAY PAY  
10 MEDICAL EXPENSES, HEALTH CARE EXPENSES, DEPENDENT CARE EXPENSES  
11 OR SIMILAR EXPENSES ON A PRETAX BASIS.

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

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

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

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

20 (iv) honored upon presentation by such single merchant or  
21 affiliated group of merchants for goods or services.

22 The term shall not include debit cards linked to a deposit  
23 account. The term also shall not include flexible spending  
24 arrangements including health reimbursement arrangements, as  
25 defined in section 106(c)(2) of the Internal Revenue Code of  
26 1986 (Public Law 99-514, 26 U.S.C. § 106(c)(2)); flexible  
27 spending accounts subject to section 125 of the Internal Revenue  
28 Code of 1986; Archer MSAs as defined in section 220(d) of the  
29 Internal Revenue Code of 1986; dependent care reimbursement  
30 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 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

1 pretax basis.

2 \* \* \*

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

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

7 (ii) Any type of postsale charge or fee, including, but not  
8 limited to, a service charge, dormancy fee, account maintenance  
9 fee, cash out fee, replacement card fee or activation or  
10 reactivation fee.

11 THE TERM DOES NOT INCLUDE GENERAL USE PREPAID CARDS.

<—

12 \* \* \*

13 Section 2. Clause 1 of section 1301.6 of the act, amended  
14 June 29, 2002 (P.L.614, No.91), is amended to read:

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

18 1. The consideration paid for a gift certificate or gift  
19 card which has remained unredeemed for two (2) years or more  
20 after its redemption period has expired or for five (5) years or  
21 more from the date of issuance if no redemption period is  
22 specified. The provisions of this clause shall not apply to a  
23 qualified gift certificate.

24 \* \* \*

25 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

<—

26 SECTION 1301.19A. CONTRIBUTIONS TO LIHEAP FROM UNCLAIMED  
27 PROPERTY.--(A) THE STATE TREASURER SHALL PROMULGATE REGULATIONS  
28 ALLOWING ANY PERSON CLAIMING AN INTEREST IN ANY PROPERTY PAID OR  
29 DELIVERED TO THE COMMONWEALTH UNDER THIS ARTICLE TO DONATE THE  
30 TOTAL CASH VALUE OF SUCH PROPERTY TO LIHEAP.

1        (B) AS USED IN THIS SECTION, THE TERM "LIHEAP" SHALL MEAN  
2        THE PROGRAM ESTABLISHED BY TITLE XXVI OF THE OMNIBUS BUDGET  
3        RECONCILIATION ACT OF 1981 (PUBLIC LAW 97-35, 95 STAT. 893 ET  
4        SEQ.) AND ADMINISTERED BY THE DEPARTMENT OF PUBLIC WELFARE.

5        Section 3 4. This act shall take effect in 60 days.

<—