



## New Federal Law Requires Gift Cards And Gift Certificates To “Clearly and Conspicuously” Disclose Fees and Expiration Terms

June 12, 2009

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On May 22, 2009, President Obama signed the Credit Card Accountability, Responsibility, and Disclosure Act of 2009, which provides some federal regulation of gift certificates, store gift cards, and general-use pre-paid cards

### **What does the Credit Card Act require from issuers of gift cards and gift certificates?**

- Prohibits an expiration date of less than five years from the day the gift card is activated.
- If a gift card expires after five years, requires that the terms of expiration must be clearly and conspicuously disclosed.
- Prohibits the imposition of dormancy or inactivity fees on gift cards unless there has been no activity on the card in a twelve month period and provided that no more than one fee is charged per month.
- Requires that dormancy or inactivity fees be clearly and conspicuously disclosed.

### **Additional key provisions:**

- The Credit Card Act does not pre-empt state laws that provide greater consumer protection.
- Gift certificates issued pursuant to an award, loyalty, or promotional program with respect to which no money or other value was exchanged are excluded from the prohibitions.
- Excluded from the definitions of general-use pre-paid cards, gift certificates and store gift cards are electronic promise, plastic card, or payment code device that is: (i) used solely for telephone services; (ii) reloadable and not marketed or labeled as a gift card or gift certificate; (iii) a loyalty



award or other promotional gift card; (iv) not marketed to the general public; and (v) issued in paper form only (including for tickets and events).

The new law takes effect on August 21, 2010.

### **Does the Credit Card Act matter?**

Presently, gift cards and gift certificates are subject to a patchwork of state laws. While at first blush the new federal law appears to streamline the regulation of gift cards and gift certificates, the new law merely provides the basic requirements for expiration dates and fees. State laws that are more restrictive with respect to fees and expiration dates are not preempted. Therefore, issuers of gift certificates or gift cards must continue to be knowledgeable of and comply with the myriad state laws.

The Senate has posted a brief summary of the Credit Card Act.

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