

112TH CONGRESS
2D SESSION

S. 3636

To provide increased consumer protections for gift cards.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 26, 2012

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide increased consumer protections for gift cards.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gift Card Consumer
5 Protection Act of 2012”.

6 **SEC. 2. EXPANDED DEFINITION OF GIFT CARDS TO IN-**
7 **CLUDE LOYALTY, AWARD, AND PRO-**
8 **MOTIONAL GIFT CARDS.**

9 Section 915(a)(2) of the Electronic Fund Transfer
10 Act (15 U.S.C. 1693l–1(a)(2)) is amended—

11 (1) in the paragraph heading, by striking “GEN-
12 ERAL USE” and inserting “GENERAL-USE”; and

1 (2) in subparagraph (D), by striking clause (iii)
2 and redesignating clauses (iv) through (vi) as
3 clauses (iii) through (v), respectively.

4 **SEC. 3. BAN ON FEES FOR INACTIVITY ASSOCIATED WITH**
5 **GIFT CARDS.**

6 Section 915(b) of the Electronic Fund Transfer Act
7 (15 U.S.C. 1693l–1(b)) is amended to read as follows:

8 “(b) PROHIBITION ON IMPOSITION OF FEES OR
9 CHARGES.—It shall be unlawful for any person to impose
10 a dormancy fee, an inactivity charge or fee, or a service
11 fee with respect to a gift certificate, store gift card, or
12 general-use prepaid card.”.

13 **SEC. 4. BAN ON EXPIRATION DATES ON GIFT CARDS.**

14 Section 915(c) of the Electronic Fund Transfer Act
15 (15 U.S.C. 1693l–1(c)) is amended—

16 (1) by striking “(1) IN GENERAL.—Except as
17 provided in paragraph (2), it shall” and inserting
18 “It shall”; and

19 (2) by striking paragraph (2).

20 **SEC. 5. CLERICAL AMENDMENT.**

21 Section 915(d)(2) of the Electronic Fund Transfer
22 Act (15 U.S.C. 1693l–1(d)(2)) is amended by striking
23 “shall”.

1 **SEC. 6. CONSUMER PROTECTIONS FOR WHEN A COMPANY**
2 **THAT ISSUES GIFT CARDS FILES FOR BANK-**
3 **RUPTCY PROTECTION.**

4 (a) EFTA.—Section 915 of the Electronic Fund
5 Transfer Act (15 U.S.C. 1693l–1) is amended—

6 (1) by redesignating subsection (d) as sub-
7 section (e); and

8 (2) by inserting after subsection (c) the fol-
9 lowing:

10 “(d) REQUIREMENTS FOR A GIFT CERTIFICATE,
11 STORE GIFT CARD, OR GENERAL-USE PREPAID CARD
12 SELLER OR ISSUER THAT HAS FILED FOR BANKRUPTCY
13 PROTECTION.—It shall be unlawful for any person—

14 “(1) to sell or issue a gift certificate or store
15 gift card if that person has filed for bankruptcy pro-
16 tection under title 11, United States Code; or

17 “(2) to resell or reissue a gift certificate, store
18 gift card, or general-use prepaid card, if—

19 “(A) the original seller or issuer of the gift
20 certificate, store gift card, or general-use pre-
21 paid card has filed for bankruptcy protection
22 under title 11, United States Code; and

23 “(B) 7 days or more have elapsed since
24 that original seller or issuer filed for bank-
25 ruptcy protection under title 11, United States
26 Code.”.

1 (b) TITLE 11.—Title 11, United States Code, is
2 amended—

3 (1) in section 362(a), by striking paragraph (6)
4 and inserting the following:

5 “(6) any act to collect, assess, or recover a
6 claim against the debtor that arose before the date
7 of commencement of the case under this title, except
8 that this paragraph shall not operate as a stay
9 against the presentation or redemption of a gift cer-
10 tificate or store gift card at full value;” and

11 (2) in section 363(c), by striking paragraph (1)
12 and inserting the following:

13 “(1) If the business of the debtor is authorized to
14 be operated under section 721, 1108, 1203, 1204, or 1304
15 of this title, and unless the court orders otherwise, the
16 trustee—

17 “(A) may enter into transactions, including the
18 sale or lease of property of the estate, in the ordi-
19 nary course of business, without notice or a hearing;

20 “(B) may use property of the estate in the ordi-
21 nary course of business, without notice or a hearing;
22 and

1 “(C) shall honor a gift certificate or store gift
2 card issued by the debtor at full value and treat the
3 gift certificate or store gift card the same as cash.”.

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