

GIFT CARD OR DOCUMENT AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill modifies the Unclaimed Property Act to address gift cards.

Highlighted Provisions:

This bill:

- ▶ defines "gift card";
- ▶ exempts a gift card, gift certificate, or credit memo from the Unclaimed Property Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

Utah Code Sections Affected:

AMENDS:

67-4a-102, as last amended by Laws of Utah 2004, Chapter 92

67-4a-211, as last amended by Laws of Utah 1998, Chapter 248

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **67-4a-102** is amended to read:

67-4a-102. Definitions.

As used in this chapter:

(1) "Administrator" means the deputy state treasurer assigned by the state treasurer to

30 administer the law governing unclaimed property in Utah.

31 (2) "Apparent owner" means the person whose name appears on the records of the
32 holder as the person entitled to property held, issued, or owing by the holder.

33 (3) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or
34 financial organization is directly liable.

35 (b) "Bank draft" includes:

36 (i) a cashier's [~~checks~~] check; and

37 (ii) a certified [~~checks~~] check.

38 (c) "Bank draft" does not include:

39 (i) a traveler's [~~checks~~] check; or

40 (ii) a money [~~orders~~] order.

41 (4) "Banking organization" means:

42 (a) a bank;

43 (b) an industrial bank;

44 (c) a trust company;

45 (d) a savings bank; or

46 (e) any organization defined by other law as a bank or banking organization.

47 (5) "Business association" means a nonpublic corporation, joint stock company,
48 investment company, business trust, partnership, or association for business purposes of two
49 or more individuals, whether or not for profit, including:

50 (a) a banking organization;

51 (b) a financial organization;

52 (c) an insurance company; or

53 (d) a utility.

54 (6) "Cashier's check" means a check that:

55 (a) is drawn by a banking organization on itself[;];

56 (b) is signed by an officer of the banking organization[~~, authorizing~~]; and

57 (c) authorizes payment of the amount shown on its face to the payee.

- 58 (7) "Class action" means a legal action:
59 (a) certified by the court as a class action; or
60 (b) treated by the court as a class action without being formally certified as a class
61 action.
- 62 (8) (a) "Deposit in a financial institution" means a demand, savings, or matured time
63 deposit with a banking or financial organization.
- 64 (b) "Deposit in a financial institution" includes:
65 (i) any interest or dividends on a deposit; and
66 (ii) a deposit that is automatically renewable.
- 67 (9) "Domicile" means:
68 (a) the state of incorporation of a corporation; and
69 (b) the state of the principal place of business of an unincorporated person.
- 70 (10) "Financial organization" means:
71 (a) a savings and loan association; or
72 (b) a credit union.
- 73 (11) "Gift card" means a payment device such as a plastic card that:
74 (a) is usable at:
75 (i) a single merchant;
76 (ii) an affiliated group of merchants; or
77 (iii) multiple, unaffiliated merchants;
78 (b) contains a means for the electronic storage of information including:
79 (i) a microprocessor chip;
80 (ii) a magnetic stripe; or
81 (iii) a bar code;
82 (c) is prefunded before it is used, whether or not monies may be added to the payment
83 device after it is used; and
84 (d) is redeemable for goods or services.
- 85 [(H)] (12) "Government entity" means:

- 86 (a) the state;
- 87 (b) [~~any~~] an administrative unit of the state;
- 88 (c) [~~any~~] a political subdivision of the state;
- 89 (d) [~~any~~] an administrative unit of a political subdivision of the state; or
- 90 (e) [~~any~~] an officer or employee of an entity described in Subsections [~~(11)~~] (12)(a)
- 91 through (d).

92 [~~(12)~~] (13) "Holder" means a person, wherever organized or domiciled, who is:

- 93 (a) in possession of property belonging to another;
- 94 (b) a trustee;
- 95 (c) indebted to another on an obligation; or
- 96 (d) charged with the duty of paying or delivering intangible property under Section
- 97 67-4a-302.

98 [~~(13)~~] (14) "Insurance company" means an association, corporation, fraternal or

99 mutual benefit organization, whether or not for profit, that is engaged in providing insurance

100 coverage, including:

- 101 (a) accident insurance;
- 102 (b) burial insurance;
- 103 (c) casualty insurance;
- 104 (d) credit life insurance;
- 105 (e) contract performance insurance;
- 106 (f) dental insurance;
- 107 (g) fidelity insurance;
- 108 (h) fire insurance;
- 109 (i) health insurance;
- 110 (j) hospitalization insurance;
- 111 (k) illness insurance;
- 112 (l) life insurance, including endowments and annuities;
- 113 (m) malpractice insurance;

- 114 (n) marine insurance;
- 115 (o) mortgage insurance;
- 116 (p) surety insurance; and
- 117 (q) wage protection insurance.
- 118 ~~[(14)]~~ (15) (a) "Intangible property" includes:
- 119 (i) ~~[monies, checks, drafts, deposits]~~ money, a check, a draft, a deposit in a financial
- 120 institution, interest, ~~[dividends]~~ a dividend, and income;
- 121 (ii) a credit ~~[balances]~~ balance, a customer ~~[overpayments]~~ payment, ~~[gift certificates~~
- 122 ~~over \$25;]~~ a security ~~[deposits]~~ deposit, ~~[refunds]~~ a refund, ~~[credit memos;]~~ unpaid wages, an
- 123 unused airline ~~[tickets]~~ ticket, and an unidentified ~~[remittances]~~ remittance;
- 124 (iii) ~~[stocks]~~ a stock, a mutual ~~[funds]~~ fund, and other intangible ownership interests
- 125 in a business ~~[associations]~~ association;
- 126 (iv) monies deposited to redeem ~~[stocks, bonds, coupons]~~ a stock, bond, or coupon,
- 127 and other securities or to make ~~[distributions]~~ a distribution;
- 128 (v) ~~[bonds, notes]~~ a bond, note, and any other debt ~~[obligations]~~ obligation;
- 129 (vi) ~~[amounts]~~ an amount due and payable under the terms of an insurance ~~[policies]~~
- 130 policy;
- 131 (vii) ~~[amounts]~~ an amount distributable from a trust or custodial fund established
- 132 under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock
- 133 purchase, profit sharing, employee savings, supplemental unemployment insurance or similar
- 134 benefits; and
- 135 (viii) ~~[amounts]~~ an amount distributable from a mineral interest in land.
- 136 (b) "Intangible property" does not include patronage capital of an electric, telephone,
- 137 and agricultural ~~[cooperatives]~~ cooperative.
- 138 ~~[(15)]~~ (16) "Last-known address" means a description of the location of the apparent
- 139 owner sufficient for the purpose of the delivery of mail.
- 140 ~~[(16)]~~ (17) "Mineral" means oil, gas, uranium, sulphur, lignite, coal, and any other
- 141 substance that is ordinarily and naturally considered a mineral, regardless of the depth at

142 which the oil, gas, uranium, sulphur, lignite, coal, or other substance is found.

143 [~~(17)~~] (18) "Mineral proceeds" includes:

144 (a) all obligations to pay resulting from the production and sale of minerals, including:

145 (i) net revenue interest;

146 (ii) royalties;

147 (iii) overriding royalties;

148 (iv) production payments; and

149 (v) joint operating agreements; and

150 (b) all obligations for the acquisition and retention of a mineral lease, including:

151 (i) bonuses;

152 (ii) delay rentals;

153 (iii) shut-in royalties; and

154 (iv) minimum royalties.

155 [~~(18)~~] (19) (a) "Money order" means a negotiable draft issued by a business

156 association for which the business association is not directly liable.

157 (b) "Money order" does not mean a cashier's check.

158 [~~(19)~~] (20) "Net intangible property" means intangible property that is held, issued, or

159 owing in the ordinary course of a holder's business;

160 (a) plus any income or increment derived from [~~it~~] the intangible property; and

161 (b) less any lawful charges.

162 [~~(20)~~] (21) "Owner" means:

163 (a) a depositor in the case of a deposit;

164 (b) a beneficiary in the case of a trust other than a deposit in trust;

165 (c) a creditor, claimant, or payee in the case of other intangible property; or

166 (d) a person or that person's legal representative having a legal or equitable interest in

167 property subject to this chapter.

168 [~~(21)~~] (22) (a) "Ownership purchase funds" means any funds paid toward the purchase

169 of a share, a mutual investment certificate, or any other interest in a banking or financial

170 organization.

171 (b) "Ownership purchase funds" includes any interest or dividends paid on those
172 funds.

173 [~~(22)~~] (23) "Person" means:

174 (a) an individual;

175 (b) a business association;

176 (c) a government entity;

177 (d) a public corporation;

178 (e) a public authority;

179 (f) an estate;

180 (g) a trust;

181 (h) two or more persons having a joint or common interest; or

182 (i) any other legal or commercial entity.

183 [~~(23)~~] (24) "State" means any state, district, commonwealth, territory, insular
184 possession, or any other area subject to the legislative authority of the United States.

185 [~~(24)~~] (25) "Utility" means a person who owns or operates for public use any plant,
186 equipment, property, franchise, or license for:

187 (a) the transmission of communications, including cable television; or

188 (b) the production, storage, transmission, sale, delivery, or furnishing of electricity,
189 water, steam, or gas.

190 Section 2. Section **67-4a-211** is amended to read:

191 **67-4a-211. Gift certificates -- Credit memos -- Gift cards.**

192 [~~(1) A gift certificate greater than \$25 or a credit memo that remains]~~ Notwithstanding
193 that one or more of the following remain unreconsidered [~~for more than five years after~~
194 ~~issuance is~~], it may not be considered abandoned [-] for purposes of this chapter:

195 (1) a gift certificate;

196 (2) a gift card; or

197 (3) a credit memo.

198 ~~[(2) (a) In the case of a gift certificate, the amount considered abandoned is the price~~
199 ~~paid for the certificate itself.]~~

200 ~~[(b) In the case of a credit memo, the amount considered abandoned is the amount~~
201 ~~credited as shown on the memo itself.]~~

202 ~~[(3) The amount of a gift certificate or credit memo considered abandoned is subject~~
203 ~~to the custody of this state when:]~~

204 ~~[(a) the records of the issuer show that the last-known address of the purchaser of the~~
205 ~~certificate or recipient of the memo is in Utah;]~~

206 ~~[(b) the records of the issuer do not show the address of the purchaser or recipient, but~~
207 ~~do show that the certificate or memo was issued in Utah;]~~

208 ~~[(c) the records of the issuer do not show the address of the purchaser or of the~~
209 ~~recipient and do not show the state where the certificate or memo was issued, but the issuer is~~
210 ~~domiciled in Utah; or]~~

211 ~~[(d) the records of the issuer show that the state contained in the address of the~~
212 ~~purchaser or recipient, or if none, the state where the certificate or memo was issued, is a~~
213 ~~state whose escheat or unclaimed property law does not provide for the escheat or custodial~~
214 ~~taking of gift certificates and credit memos, and the issuer is domiciled in Utah.]~~

215 Section 3. **Effective date.**

216 This bill takes effect on July 1, 2011.