

STATE ESCHEAT LAWS AS
APPLIED TO GIFT CERTIFICATES

1 August 2007

- Alabama: Generally, Ala. Code § 35-12-70 *et seq.* Effective May 12, 2004, Alabama revised its escheat law completely. *See* H.B. 684. The new escheat period is three years after June 30 of the year sold for gift certificates. The amount presumed abandoned is valued at 60% of the face value of the gift certificate, if the certificate is redeemable for merchandise only. Ala. Code § 35-12-72(a)(17). However, gift certificates appear to be exempt from escheat under another section of the new law that states that the following is exempt from reporting: a gift card or certificate or in-store merchandise credit issued or maintained by any person engaged primarily in the business of selling tangible personal property at retail. Ala. Code § 35-12-73(b)(1). A gift certificate that expires before it is used escheats to the state.
- Alaska: Generally, Alaska Stat. § 34.45.110 *et seq.* Effective June 25, 2004, three years for gift certificates. Alaska Stat. § 34.45.240(a). A gift certificate that expires before it is used escheats to the state.
- Arizona: Generally, Ariz. Rev. Stat. Ann. § 44-301 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Ariz. Rev. Stat. Ann. §§ 44-301(15). Dormancy fees may be charged against property presumed abandoned, if they are pursuant to a valid and enforceable written contract between the holder and the owner, the holder regularly imposes the fee, the fee is not regularly reversed or canceled, and the amount of the fee is not unconscionable. Ariz. Rev. Stat. Ann. §§ 44-305. Effective November 1, 2005, gift certificates must clearly and conspicuously disclose any expiration date, fees that may be imposed, and when such fees may be incurred. The disclosure must be (i) conspicuously printed on the front of the gift certificate for paper certificates, (ii) made orally before purchase for telephone sales, and (iii) made accessible online before purchase for online sales. Gift certificates must be honored in accordance with their disclosed terms. Ariz. Rev. Stat. Ann. §§ 44-7402. The new law contains an exemption for gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, or sold below face value or donated to non-profit organizations for fundraising, prepaid telephone cards, and debit cards connected to a bank account. Ariz. Rev. Stat. Ann. §§ 44-7402(D).
- Arkansas: Generally, Ark. Code Ann. § 18-28-201. Gift certificates are not included in the definition of intangible property. Ark. Code § 18-28-201(13)(B).

California:

Effective January 1, 1997, any gift certificate that is *sold* cannot contain an expiration date and must be redeemable for their cash value or replaced with a new gift certificate at no cost to the purchaser or holder. Cal. Civ. Code §§ 1749.5(a) and (b) (Deering). Accordingly, gift certificates are not subject to escheat. Cal Civ. Proc. Code § 1520.5. Certificates may contain expiration dates, if they are distributed by an issuer to a consumer pursuant to an awards, loyalty, or promotional program, as long as the consumer does not give money or any other thing of value in exchange for the gift certificate, they are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those certificates is not more than 30 days after the date of sale, or they are sold for food products such as groceries (this exception does not apply to gift certificates for restaurant meals). Cal. Civ. Code §§ 1749.5(d)(1), (2), and (3). The expiration date must be on the front of such certificates in capital letters in at least 10-point font. Cal. Civ. Code § 1749.5(c). Cal Civ. Proc. Code § 1520.5 (Deering). The term “gift certificate” specifically includes gift cards, except for certain cards that may be used with multiple sellers of goods or services (e.g., cards that can be used at various stores in a shopping mall) and prepaid calling cards. Cal. Civ. Code § 1749.45(a). Gift certificates cannot contain dormancy or other service fees, but a gift card may contain a dormancy fee if (1) the value remaining on the gift card is \$5.00 or less each time the fee is assessed, (2) the dormancy fee is \$1.00 per month or less, (3) the card has been inactive for 24 consecutive months (for example, no purchases, “reloading,” or balance inquiries), (4) the holder may reload or add value to the card, and (5) the card contains a statement in at least 10-point type stating the amount and frequency of the fee, that the fee is triggered by inactivity, and at what point the fee will be charged. This statement may be in the front or back of the card, but it must be visible to the purchaser prior to sale. Cal. Civ. Code § 1749.5(e). A gift certificate or gift card that is sold to the purchaser as a gift for another person may state a date by which the recipient must redeem the certificate or card. Because this is an exception to the “no expiration date” rule, a seller that chooses to state a redemption date on a gift card or gift certificate must give the purchaser a full refund of the amount paid for the certificate or card if the recipient does not redeem it by the redemption date. Cal. Civ. Code §§ 1749.5(a)(1) and (f). Gift certificates purchased before 1997, and which contain expiration dates, are still subject to escheat after three years. Cal Civ. Proc. Code §§ 1520(a) and 1520.5.

- Colorado: Generally, Colo. Rev. Stat § 38-13-101 *et seq.* Five years for gift certificates that are redeemable in cash. Escheat law does not apply to gift certificates that are redeemable for food, products, goods, or services. Colo. Rev. Stat. §§ 38-13-102(7)(a)(II) and 38-13-108.4. The state attorney general ruled that a gift certificate that expires before it is used escheats to the state.
- Connecticut: Generally, Conn. Gen. Stat. § 3-56a. Gift certificates may not contain expiration dates, and issuers may not impose dormancy or any other fees that reduce a certificate's value. Conn. Gen. Stat. §§ 42-460 and 3-65c; Conn. Pub. Act 3-1 (2003), §§ 83, 84. Effective October 1, 2005, gift certificates are not subject to escheat. Conn. Gen. Stat. § 3-73a(e).
- Delaware: Generally, Del. Code Ann. tit. 12, § 1197. Five years for gift certificates, although gift certificates with a face value of no more than \$5 are not subject to escheat. Del. Code Ann. tit. 12, § 1198(10). However, any provisions, including expiration dates of less than five years, are invalid as applied to the State escheator, if doing so would have the effect of defeating escheat. Del. Code tit. 12, § 1212. Delaware has shortened the escheat period for companies incorporated in the state. Del. Code tit. 12, §§ 1198(8), 1201. The state has three years to determine any deficiency in reporting, unless there is a material omission, in which case the period is extended to six years.
- District of Columbia: Generally, D.C. Code Ann. § 42-201 *et seq.* Five years for gift certificates. D.C. Code Ann. § 42-214. A gift certificate that expires before it is used escheats to the District. D.C. Code Ann. § 42-229.
- Florida: Generally, Fla. Stat. ch. 717.001 *et seq.* Gift certificates are not subject to escheat. Fla. Stat. ch. 717.1045. However, gift certificates sold or issued by financial institutions or money transmitters are subject to escheat (presumably after 5 years). Fla. Stat. ch. 717.1045(4). The term "gift certificate" specifically includes a certificate, gift card, stored value card, or similar instrument issued in exchange for monetary consideration when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction. Fla. Stat. ch. 501.95(1)(b). Effective June 28, 2007, gift certificates may not contain expiration dates, and issuers may not impose dormancy or any other fees that reduce a certificate's value. Fla. Stat. ch. 501.95(2)(a). However, a gift certificate may have an expiration date of not less than 3 years if it is provided as a charitable contribution when no consideration is

given to the issuer by the consumer, or not less than 1 year if it is provided as a benefit pursuant to an employee incentive program, consumer loyalty program, or promotional program when no consideration is given to the issuer by the consumer, and the expiration date is prominently disclosed in writing to the consumer at the time it is provided. In addition, a gift certificate may have an expiration date if it is provided as part of a larger package related to a convention, conference, vacation, or sporting or fine arts event having a limited duration so long as the majority of the value paid by the recipient is attributable to the convention, conference, vacation, or event. Fla. Stat. ch. 501.95(2)(a). The new law does not apply to gift certificates sold or issued by a financial institution or by a money transmitter, if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants. Fla. Stat. ch. 501.95(2)(b). Florida law provides that contract provisions cannot be used to defeat its escheat statute. Fla. Stat. Ann. Ch. 717.129.

Georgia: Generally, Ga. Code Ann. § 44-12-190 *et seq.* Five years for gift certificates. Ga. Code Ann. §§ 44-12-192(10)(B) and 44-12-205. Effective October 1, 2005, gift card/certificate issuers must include the terms of the card in the packaging that accompanies the card at the time of purchase and make such terms available upon request. Issuers must also print conspicuously the expiration date, if any, on the card and the amount of any dormancy or nonuse fees on the card or on a sticker affixed to the card. *See* Ga. Code Ann. § 10-1-393(33). Georgia law provides that contract provisions cannot be used to defeat its escheat statute. Ga. Code Ann. §§ 44-12-226.

Hawaii: Generally, Haw. Rev. Stat. § 523A-1 *et seq.* Five years for gift certificates/cards. Haw. Rev. Stat. §§ 523A-2 and 523A-14. Note, however, that the expiration date of a gift certificate must be stated on its face (or it may be printed on a sales receipt in the case of a gift card), and it cannot be less than two years. Haw. Rev. Stat. § 481B-13(b). Effective July 1, 2005, Hawaii prohibits dormancy or any other fees that reduce a certificate's value. Haw. Rev. Stat. § 481B-13(a). Certificates may contain expiration dates, if they are issued as part of an awards, loyalty, or promotional program, or to a charity, for free (*i.e.*, not for money or any other thing of value) provided that the expiration date appears on the gift certificate or the sales receipt. Haw. Rev. Stat. § 481B-13(c). Any gift certificate that lacks an expiration date shall never expire. Haw. Rev. Stat. §§ 481B-13(b) and (c). A gift certificate that expires before it is used escheats to the state. Haw. Rev. Stat. § 523A-29(a).

- Idaho: Generally, Idaho Code § 14-501 *et seq.* Gift certificates with a prominently displayed expiration date are not subject to escheat. Idaho Code § 14-502(2)(b). Gift certificates with no expiration date escheat after five years. Idaho Code §§ 14-501(10)(b) and 14-514. Idaho law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Illinois: Generally, Ill. Rev. Stat. ch. 765, § 1025/1 *et seq.* Five years for gift certificates. Ill. Rev. Stat. ch. 765, § 1025/9. State escheat laws apply only to gift certificates that expire or that have language indicating that dormancy or other similar fees are imposed. Escheat laws do not apply to certificates that have an expiration date, but the issuer has a (written and posted) policy of honoring expired certificates. Ill. Rev. Stat. ch. 765, § 1025/10.6. A gift certificate subject to a dormancy or other similar fee must contain a clear and conspicuous statement visible to a purchaser prior to the purchase stating the amount of the fee, how often it will occur, that the fee will be triggered by inactivity, and at what point it will be charged. Expiration dates must also be set forth in a clear and conspicuous statement visible to a purchaser prior to the purchase. Ill. Rev. Stat. ch. 815, §§ 505/2QQ(b) and (c). The disclosure requirements pertaining to dormancy fees and expiration dates do not apply to certificates distributed by an issuer to a consumer pursuant to an awards, loyalty, or promotional program, as long as the consumer does not give money or any other thing of value in exchange for the gift certificate, to gift certificates that are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those certificates is not more than 30 days after the date of sale, or to gift certificates that are sold for food products. Ill. Rev. Stat. ch. 815, § 505/2QQ(e). The term “gift certificate” specifically includes gift cards, except for certain cards that may be used with multiple sellers of goods or services (e.g., cards that can be used at various stores in a shopping mall) and prepaid calling cards. Ill. Rev. Stat. ch. 815, § 505/2QQ(a). A gift certificate that expires before it is used escheats to the state. *People ex rel. Callahan v. Marshall Field & Co.*, 404 N.E.2d 368 (Ill. App. Ct. 1980).
- Indiana: Generally, Ind. Code Ann. § 32-34-1 *et seq.* (Burns). Gift certificates are not subject to escheat. Ind. Code Ann. §§ 32-34-1-1(f).
- Iowa: Generally, Iowa Code § 556.1 *et seq.* Three years for gift certificates. Iowa Code §§ 556.9(1) and 556.1(10)(b). The issuer of a gift certificate may not impose any dormancy fees unless under a valid contract between the issuer and the owner of the gift certificate, and the issuer regularly imposes such charges and does not regularly reverse or cancel them. A gift certificate is defined as a merchandise certificate conspicuously designated

as such “and generally purchased by a buyer for use by someone other than the buyer.” Iowa Code § 556.9(2). While Iowa law is unclear, it appears that a gift certificate that expires before it is used escheats to the state. Iowa Code § 556.16.

Kansas:

Generally, Kan. Stat. Ann. § 58-3934. Law amended to exclude gift certificates from the definition of personal property subject to escheat. Kan. Stat. Ann. § 58-3934(n)(2). Under Kansas H.B. 2658 (enacted as part of the state’s consumer protection laws), gift cards sold on or after January 1, 2007, cannot expire for 5 years after the date of purchase. Effective immediately, gift card issuers cannot impose dormancy or any other fees that reduce a certificate’s value within 12 months of the date of issuance. These restrictions do not apply to gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, or to those sold below face value or at a volume discount to employers or to non-profit organizations for fundraising purposes. All conditions and limitations must be disclosed at the time of purchase. Gift cards do not include prepaid bank cards.

Kentucky:

Kentucky S.B. 49 has created a new section to chapter 367 of the Kentucky Revised Statutes (Consumer Protection Laws). As a result, no person or entity may (a) sell a gift card containing an expiration date less than one year after issuance, or (b) impose service charges or other fees (e.g., dormancy, latency, or administrative fees) that reduce the value of the gift card for at least one year or until the expiration date on the card has expired, whichever occurs later. If a gift card does not contain an expiration date, it is valid until it is redeemed or replaced with a new card. Ky. Rev. Stat. Ann. § 367.890. There are some minor exceptions to these prohibitions. For example, as long as a gift card does not expire for at least 120 days, it may contain expiration dates if: (a) it is distributed by an issuer to a consumer pursuant to an awards, loyalty, or promotional program, as long as the consumer does not give money or any other thing of value in exchange for the gift certificate; (b) it is sold below face value at a volume discount to employers or to nonprofit or charitable organizations for fundraising purposes; (c) it is sold by a nonprofit or charitable organization for fundraising purposes; or (d) it is given by an employer to an employee for use at the employer’s business establishment (including a group of merchants affiliated with that business establishment). Ky. Rev. Stat. Ann. § 367.890. The term “gift card” specifically includes gift certificates and electronic cards, but it specifically excludes certain cards that may be used at multiple, unaffiliated sellers of goods or services (e.g., cards that can be used at various stores in a shopping mall), prepaid calling cards, and cards issued

by a merchant for a promotional program for which no separate monetary consideration is given. Ky. Rev. Stat. Ann. § 367.890(1). If a person imposes a fee in violation of the new Kentucky law, he will be liable for attorney's fees and costs in addition to actual damages. S.B. 49, § 6. Gift certificates are not specifically included in the definition of property that escheats to the state. Ky. Rev. Stat. Ann. § 393.010. However, intangible property generally escheats to the state after seven years. Ky. Rev. Stat. Ann. § 393.090.

Louisiana:

Generally, La. Rev. Stat. Ann. § 9:151 *et seq.* (West). Three years after December 31 of the year sold for gift certificates. La. Rev. Stat. Ann. § 9:154(A)(6). The definition of gift certificates has been expanded so that it clearly encompasses gift cards and merchandise credits as well as paper certificates. La. Rev. Stat. Ann. § 51:1423(A). Effective August 15, 2004, the expiration date of a gift certificate or merchandise credit must be stated on its face in capital letters in at least 10-point font, and it cannot be less than five years. La. Rev. Stat. Ann. § 51:1423(B)(1). Dormancy and other service fees are not permitted, except for one-time handling fee that cannot exceed \$1.00 per certificate. La. Rev. Stat. Ann. § 51:1423(B)(2). Gift certificates sold without an expiration date shall be valid until redeemed or replaced. La. Rev. Stat. Ann. § 51:1423(C). The new law contains an exemption for gift certificates that are (a) distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, (b) sold below face value or donated to non-profit organizations for fundraising purposes, or (c) usable with multiple sellers of goods and services. La. Rev. Stat. Ann. § 51:1423(D). A gift certificate that expires before it is used escheats to the state. La. Rev. Stat. Ann. § 9:171.

Maine:

Generally, Me. Rev. Stat. Ann. tit. 33, § 1951 *et seq.* (West). For gift cards or stored value cards, two years after December 31 of the year sold, or the most recent transaction involving the obligation or stored-value card occurred, whichever is later. The amount presumed abandoned is 60% of the face value of the cards. Maine prohibits expiration dates and dormancy fees. Maine allows a transaction fee for the initial issuance of a gift card and for each time value is added to the card, if such fees are disclosed prior to issuance. Me. Rev. Stat. Ann. tit. 33, §§ 1953(1)(G) and 1952(13)(B). Different rules apply for a prefunded bank card, which is defined as "a device issued by a financial organization that enables the holder to transfer the underlying funds to multiple merchants at the merchants' point-of-sale terminals." Me. Rev. Stat. Ann. tit. 33, § 1952(12-A). For prefunded bank cards, the escheat period is three years after December 31 of the year sold, or the most recent activity involving the prefunded bank card occurred, whichever is later. Me. Rev. Stat. Ann.

tit. 33, § 1953(1)(G-1). The amount presumed abandoned is the face value of the prefunded bank card. Apparently, dormancy and other fees can be imposed on a prefunded bank card, if they are disclosed in advance. All issuers must obtain the address of the purchaser. If the gift certificate is less than \$50, however, issuers do not need to obtain the address as long as they have adopted a system for identifying the last known address of the purchaser that is acceptable to the state escheat administrator. A gift certificate that expires before it is used escheats to the state. Me. Rev. Stat. Ann. tit. 33, § 1970(1).

Maryland:

Generally, Md. Code Ann. Com. Law I § 17-101 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Md. Code Ann. Com. Law I § 17-101(m)(1). Effective July 1, 2006, Maryland prohibits gift certificates from expiring before four years and from imposing dormancy or any other fees that reduce a certificate's value during that time. Md. Code Ann. Com. Law I § 14-1319(B). Expiration dates and fees that take effect after four years must be disclosed in at least 10-point font on the card, on a sticker permanently affixed to the card, or on an envelope that contains the card. Md. Code Ann. Com. Law I § 14-1319(C). Terms and conditions on gift certificates cannot be changed after the date of purchase or issuance, unless the change improves such terms and conditions. Md. Code Ann. Com. Law I § 14-1319(D). Fees or expiration dates that violate the new law will be invalid. Md. Code Ann. Com. Law I § 14-1319(E). The new law contains an exemption for gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, prepaid telephone cards, and gift cards that are processed through a national credit or debit card service and can be used at multiple unaffiliated sellers. Md. Code Ann. Com. Law I § 14-1319(A)(2). These bank-issued stored value cards may have shorter expiration dates and contain dormancy and other fees, as long as such fees are prominently disclosed in at least 10-point type. If the cards are sold online or over the telephone, the disclosures must be made orally or online, as the case may be, prior to purchase. Md. Code Ann. Com. Law I § 14-1320.

Massachusetts:

Generally, Mass. Gen. Laws ch. 200A, § 1 *et seq.* The definition of gift certificates has been expanded so that it clearly encompasses gift cards and merchandise credits as well as paper certificates. Mass. Gen. Laws ch. 255D, § 1; Mass. Gen. Laws ch. 93, § 14S. Gift certificates are specifically excluded from the definition of personal property subject to escheat. Mass. Gen. Laws ch. 200A, §§1, 5. Note, however, that the expiration date of a gift certificate or merchandise credit must be stated on its face, and it cannot be less than seven years. Mass. Gen. Laws ch.

200A, § 5D. Merchants selling gift certificates that impose a time limit of less than seven years or refusing to honor a gift certificate before it reaches its expiration date can be fined up to \$300. Mass. Gen. Laws ch. 266, § 75C. Massachusetts also prohibits dormancy or any other fees that reduce a certificate's value for seven years. Gift certificates not clearly marked with a date of issuance and a date of expiration shall be good forever. (For a gift card, the dates will be considered clearly marked if they are printed on the sales receipt, are available on-line, or can be obtained by calling a toll-free telephone number.) Ch. 510 of the Act of 2002, § 8. If 90% or more of a gift certificate has been used, the consumer may elect to receive cash for the balance. Mass. Gen. Laws ch. 200A, §5D.

Michigan: Generally, Mich. Stat. Ann. § 26.1055, *et seq.*, or Mich. Comp. Laws § 567.235 *et seq.* Five years for gift certificates. Mich. Stat. Ann. § 26.1055(15) or Mich. Comp. Laws § 567.235(15). A gift certificate that expires before it is used escheats to the state. Mich. Stat. Ann. § 26.1055(30), or Mich. Comp. Laws § 567.235(30).

Minnesota: Generally, Minn. Stat. Ann. § 345.31 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Minn. Stat. Ann. § 345.39. Effective August 1, 2007, gift certificates may not contain expiration dates, and issuers may not impose dormancy or any other fees that reduce a certificate's value. Minn. Stat. Ann. § 325G.53(2). The new law contains an exemption for gift certificates (1) that are distributed by an issuer to a consumer pursuant to an awards, loyalty, or promotional program, as long as the consumer does not give money or any other thing of value in exchange for the gift certificate, (2) that are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes, (3) that are issued by an employer to an employee in recognition of services performed by the employee. The new law also does not apply to debit cards or other legal access devices used to access a deposit account and that are subject to the federal disclosure rules in the Electronic Fund Transfer Act, 15 U.S.C. §1693 *et seq.* (and its implementing Regulation E), to bank cards usable at multiple sellers of goods and services (as long as expiration dates and fees are disclosed), and prepaid calling cards. Minn. Stat. Ann. § 325G.53(3). The holder is entitled to receive cash if the balance on the card is no more than \$5.00. Minn. Stat. Ann. § 325G.53(4).

- Mississippi: Generally, Miss. Code Ann. § 89-12-1 *et seq.* Five years for gift certificates. Miss. Code Ann. §§ 89-12-14 or 89-12-15 and 89-12-3(f). Mississippi law appears unsettled regarding whether an expired gift certificate would escheat to the state. Miss. Code Ann. § 89-12-35.
- Missouri: Generally, Mo. Rev. Stat. § 447.500 *et seq.* (Vernon). Five years for gift certificates. Mo. Rev. Stat. §§ 447.535, 447.536. The amount presumed abandoned is 60% of the face value of the cards for those that may be redeemed for merchandise only; however, the state shall reimburse the owner for the full value of the card. Missouri law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Montana: Generally, Mont. Code Ann. § 70-9-801 *et seq.* For gift cards or stored value cards, three years after December 31 of the year in which the cards were sold, but if the cards are redeemable for merchandise only, the amount presumed abandoned is 60% of their face value. Mont. Code Ann. § 70-9-803(1)(g). Effective October 1, 2005, gift certificates may not contain expiration dates, and issuers may not impose dormancy or any other fees that reduce a certificate's value. Mont. Code Ann. §§ 30-14-108(1) and (3). If the remaining value of a certificate is less than \$5, the holder may elect to receive cash for the balance, if the original value of a certificate had been more than \$5. Mont. Code Ann. § 30-14-108(4). The new law contains an exemption for gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, prepaid telephone or technical support cards, and gift cards that can be used at multiple unaffiliated sellers. Mont. Code Ann. § 30-14-102(5)(b). Apparently, a gift certificate that expires before it is used still escheats to the state. Mont. Code Ann. § 70-9-819.
- Nebraska: Generally, Neb. Rev. Stat. § 69-1301 *et seq.* Three years for gift certificates. Neb. Rev. Stat. § 69-1305.03. Effective November 2, 2006, Nebraska exempts all gift certificates/cards under \$100 that do not contain fees or an expiration date from its escheat laws. Neb. Rev. Stat. §§ 69-1305.03(a) and (b). It also exempts gift certificates/cards issued before November 2, 2006 (which are less than three years old) with a face value of less than \$100 if the issuer publicly posts, prior to July 1, 2006, its policy of charging no fees and honoring them even if they have expired. Such notice must be posted conspicuously in at least 10-point font in all Nebraska locations where the card is distributed or redeemed. Neb. Rev. Stat. § 69-1305.03(d). Any expiration date and the amount, frequency, and trigger for dormancy fees must be shown clearly and conspicuously on the card or certificate prior to purchase. Neb. Rev. Stat. §§ 69-1305.03(f) and (g). Gift certificates/cards with a face value of at least

\$100, or those that contain expiration dates or fees continue to escheat after three years. Neb. Rev. Stat. § 69-1305.03(c). The statutory restrictions on expiration dates and dormancy fees do not apply to a general-use prepaid card cards usable with multiple, unaffiliated sellers of goods and services. Neb. Rev. Stat. § 69-1305.03(h). General-use prepaid cards escheat after five years from the date of the last transaction initiated by the card owner, however. Neb. Rev. Stat. § 69-1308(b). Nebraska law appears unsettled regarding whether an expired gift certificate would escheat to the state. Neb. Rev. Stat. § 69-1315.

Nevada:

Generally, Nev. Rev. Stat. Ann. § 120A.010 *et seq.* Three years for gift certificates. Nev. Rev. Stat. §§ 120A.095(2) and 120A.230. A gift certificate that expires before it is used escheats to the state. Nev. Rev. Stat. § 120A.150. Effective October 1, 2005, gift certificates may contain expiration dates and impose dormancy or any other fees that reduce a certificate's value only if the expiration dates or fees are printed in 10 point font on the certificate or the certificate contains a toll-free number the holder can call to obtain expiration date, unused balance, and/or dormancy fee information. Nev. Rev. Stat. §§ 598.0921(1)(a) and (b). Dormancy fees cannot be imposed in the first 12 months after issuance (sale) and cannot exceed \$1/month. Nev. Rev. Stat. § 598.0921(1)(c). The term "gift certificate" is defined broadly and specifically includes gift cards. Nev. Rev. Stat. § 598.0921(3). The new law contains an exemption for gift certificates/cards issued pursuant to an awards, loyalty, promotional, rebate, or incentive program, as long as the issuer does not receive money or any other thing of value in exchange for the gift certificate, sold below face value to employers or to nonprofit and charitable organizations if the expiration date on those certificates is not more than 30 days after the date of sale, used at multiple unaffiliated sellers (as long as the expiration date is printed plainly and conspicuously on the front or back of the certificate), and prepaid telephone, technical support, or Internet service cards. Nev. Rev. Stat. §§ 598.0921(2).

New Hampshire:

Generally, N.H. Rev. Stat. Ann. § 471-C:1 *et seq.* Gift certificates of \$100 or less may not have an expiration date and are not subject to escheat. This provision does not apply to gift certificates for which no monetary consideration is given or that are distributed to consumers for promotional purposes. N.H. Rev. Stat. §§ 358-A:2(XIII) and 471-C:16. Five years for all other gift certificates. N.H. Rev. Stat. §§ 471-C:1(XI)(b) and 471-C:2(I). A gift certificate must expire when escheated to the state as abandoned property. N.H. Rev. Stat. § 471-C:33. New Hampshire prohibits dormancy or any other fees that reduce a certificate's value. N.H. Rev. Stat. § 358-A:2(XIII).

- New Jersey: Gift certificates are not specifically included in the detailed definition of intangible property that is subject to the state's escheat laws and, therefore, are not subject to escheat. Generally, N.J. Rev. Stat. § 46:30B-1 *et seq.* (N.J. Rev. Stat. § 46:30B-6); *New Jersey v. Sperry & Hutchinson Co.*, 157 A.2d 505 (N.J. 1960). It is state public policy that contract provisions cannot be used to defeat its escheat statute. *In the Matter of Unclaimed Property Office*, 706 A.2d 1177 (N.J. Super. Ct. App. Div. 1998), *aff'd*, 722 A.2d 536 (N.J. 1999). New Jersey prohibits gift certificates from expiring before two years and from imposing dormancy or any other fees that reduce a certificate's value during that time or within two years of the most recent activity or transaction. All terms and conditions regarding expiration dates and dormancy fees must be disclosed to the buyer at the time of purchase and printed conspicuously on the gift certificate. Dormancy fees cannot exceed \$2/month. N.J. Rev. Stat. § 56:8-110(a).
- New Mexico: Generally, N.M. Stat. Ann. § 7-8A-1 *et seq.* (Michie). Three years after December 31 of the year sold for gift certificates. For gift certificates that are redeemable only in merchandise, the amount presumed abandoned is valued at 60% of the face value of the gift certificate. N.M. Stat. Ann. § 7-8A-2(a)(7). A gift certificate that expires before it is used escheats to the state. N.M. Stat. Ann. § 7-8A-19.
- New York: Five years for gift certificates. N.Y. Aband. Prop. Law § 1315 (McKinney). Gift certificates are defined broadly to include gift cards. Effective October 20, 2004, the terms and conditions of a gift certificate must be disclosed to the purchaser either on a sign that is conspicuously posted, or they must be stated conspicuously stated in an offer made by mail. Terms and conditions must be conspicuously printed on the gift certificate, an envelope or packaging containing the certificate or an additional printed document, provided that the gift certificate contains a toll-free telephone number where the terms and conditions can be accessed. Gift certificates must be honored in accordance with such terms. N.Y. Gen. Bus. Law § 396-i (McKinney). The new law contains an exemption for gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, or sold below face value or at a volume discount to employees, to non-profit organizations, or to educational institutions for fundraising purposes. N.Y. Gen. Bus. Law § 396-i(3-b) (McKinney). No monthly fee can be assessed against a gift certificate before the thirteenth month of inactivity. N.Y. Gen. Bus. Law § 396-i(5) (McKinney). A gift certificate that expires before it is used escheats to the state. *In the Matter of Kimberley's A Day Spa, Ltd. v. Hevesi*, 2006 NYSlipOp 26075 (N.Y. Sup. Ct. Jan. 5, 2006)

http://www.courts.state.ny.us/reporter/3dseries/2006/2006_26075.htm
(visited Aug. 31, 2006).

- North Carolina: Generally, N.C. Gen. Stat. § 116B-51 *et seq.* Three years for gift certificates. The amount presumed abandoned is valued at 60% of the unredeemed portion of the face value of the gift certificate. N.C. Gen. Stat. §§ 116B-52(11)(B) and 116B-53(c)(8). Gift certificates with no expiration date are not subject to escheat. N.C. Gen. Stat. § 116B-54(b). A gift certificate that expires before it is used escheats to the state. N.C. Gen. Stat. § 116B-71.
- North Dakota: Generally, N.D. Cent. Code § 47-30.1-01 *et seq.* Gift certificates are no longer specifically included in the detailed definition of intangible property that is subject to the state's escheat laws and are presumably not subject to escheat. N.D. Cent. Code §§ 47-30.1-01. North Dakota prohibits gift certificates from expiring before six years after purchase, and prohibits issuers from imposing dormancy or any other fees that reduce a certificate's value. N.D. Cent. Code § 51-29-02. The term "gift certificate" is defined broadly and specifically includes gift cards. N.D. Cent. Code § 51-29-01. The new law does not apply to gift certificates/cards issued pursuant to an awards, loyalty, promotional, rebate, or incentive program, as long as the issuer does not receive money or any other thing of value in exchange for the gift certificate, and to reloadable cards that can be used at multiple unaffiliated sellers. N.D. Cent. Code § 51-29-02. Contract provisions cannot be used to defeat North Dakota's escheat statute.
- Ohio: Generally, Ohio Rev. Code Ann. § 169.01 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Ohio Rev. Code Ann. §§ 169.01(B)(2)(d) and 169.02(P). Effective June 14, 2006, Ohio prohibits gift cards from having expiration dates that are less than two years after the date of issuance and the imposition of dormancy or any other fees that reduce a certificate's value for two years. Ohio Rev. Code Ann. §§ 1349.61(A)(1) and (2). The prohibitions against expiration dates and dormancy fees do not apply if the gift card: (a) is distributed by an issuer to a consumer pursuant to an awards, loyalty, or promotional program, as long as the consumer does not give money or any other thing of value in exchange for the gift certificate; (b) is sold below face value at a volume discount to employers or to nonprofit or charitable organizations for fundraising purposes, if the expiration date is not more than 30 days after the date of sale; (c) is sold by a nonprofit or charitable organization for fundraising purposes; (d) is given by an employer to an employee for use at the employer's business establishment (including a group of merchants affiliated with that business

establishment); (e) is usable at multiple, unaffiliated sellers of goods and services; or (f) is given by an employer to an employee in recognition of services performed. Ohio Rev. Code Ann. § 1349.61(C). A gift card does not include prepaid calling cards. Ohio Rev. Code Ann. § 1349.61(E)(1). A gift card without an expiration date is valid until redeemed or replaced with a new card. Ohio Rev. Code Ann. § 1349.61(B). Ohio law is unclear on whether an expired gift certificate would escheat to the state.

- Oklahoma: Gift certificates are not specifically included in the detailed definition of intangible property. Generally, Okla. Stat. tit. 60, § 651. However, while Oklahoma law is not clear, it gift certificates may escheat after five years. Okla. Stat. tit. 60, § 658. Credit memos for more than \$50 escheat after 5 years. Okla. Stat. tit. 60, § 657.1(a). Effective November 1, 2005, Oklahoma prohibits gift certificates from expiring before 60 months and from imposing dormancy or any other fees that reduce a certificate's value during that time unless some very stringent restrictions are met. Okla. Stat. tit. 15, §§ 797(A) and (D). Gift certificates will be redeemable in cash or replaced at no cost. Okla. Stat. tit. 15, § 797(B). The new law applies only to certificates that can be used to buy goods or services at a single merchant or a group of merchants that have common corporate control. In other words, it does not apply to bank-issued stored value cards. Okla. Stat. tit. 15, § 796. The restrictions on expiration dates and dormancy fees do not apply to gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money in exchange, or sold below face value or at a volume discount to employers or to non-profit organizations for fundraising (if the expiration date is not more than 30 days after the date of sale), or issued for a food product. Any expiration date permitted must be in capital letters in at least 10-point font on the front of the card. Okla. Stat. tit. 15, § 797(C). Contract provisions cannot be used to defeat Oklahoma's escheat law. Okla. Stat. tit. 60, § 666.
- Oregon: Generally, Ore. Rev. Stat. § 98.302 *et seq.* Gift certificates are not subject to escheat. Ore. Rev. Stat. § 98.302-8. Contract provisions cannot be used to defeat the escheat law of Oregon. Ore. Rev. Stat. § 98-342.
- Pennsylvania: Generally, Pa. Stat. Ann. tit. 72, § 1301 *et seq.* (Purdon). Gift certificates unredeemed for two years after the expiration of their redemption period, or five years from the date of issuance if they contain no expiration date, are presumed abandoned and escheat to the state. Pa. Stat. Ann. tit. 72, § 1301.6(1). Under Pennsylvania 2006 Act 138, gift cards without expiration dates or dormancy fees are not subject to escheat. Under the 2006 Act, the term "gift card" is defined broadly and the term "general use prepaid cards" is defined to mean cards issued by a financial institution or

a licensed money transmitter. Pennsylvania law appears unsettled regarding whether an expired gift certificate would escheat to the state. Pa. Stat. Ann. tit. 72, § 1301.16.

- Rhode Island: Generally, R.I. Gen. Laws § 33-21.1-1 *et seq.* Effective July 9, 2004, gift certificates cannot contain expiration dates (or other time limits on redemption), or any maintenance or service fees. R.I. Gen. Laws § 6-13-12. The new law contains an exemption for gift certificates distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange, and for general use prepaid cards issued by a third party prepaid card issuer. Gift certificates are not subject to escheat. R.I. Gen. Laws § 6-13-12. (The escheat period had been three years for gift certificates. R.I. Gen. Laws § 33-21.1-14.) Record keeping can still be quite onerous, especially for certificates valued at more than \$50.
- South Carolina: Generally, S.C. Code Ann. § 27-18-10 *et seq.* Gift certificates are not specifically included in the detailed definition of intangible property and are not subject to escheat. S.C. Code Ann. § 27-18-20(10). Effective July 1, 2004, South Carolina modified the Trade and Commerce title of its Code with respect to gift certificates. Thereafter, the term “gift certificate” means a certificate issued or sold by a person engaged in the business of offering goods or services for sale at retail and specifically includes gift cards. S.C. Code Ann. § 39-1-55(A). A gift certificate may not expire prior to one year after it is sold or issued, unless the expiration date is on the front of the certificate in capital letters in at least 10-point font. S.C. Code Ann. § 39-1-55(B). A gift certificate with an expiration date that does not conform to subsection (B) is deemed to expire in one year. S.C. Code Ann. § 39-1-55(A). Any dormancy or other fees that decrease the value of a certificate over time must be stated clearly on the certificate, the envelope, the covering of the certificate, or the receipt. If such fees are not stated clearly, a consumer may redeem the certificate for its unused value (without allowing dormancy and other similar fees). S.C. Code Ann. § 39-1-55(C).
- South Dakota: Generally, S.D. Codified Laws Ann. § 43-41B-1 *et seq.* Five years for gift certificates. S.D. Codified Laws Ann. § 43-41B-15. A gift certificate that expires before it is used escheats to the state. S.D. Codified Laws Ann. § 43-41B-30.
- Tennessee: Generally, Tenn. Code Ann. § 66-29-101 *et seq.* A gift certificate is presumed abandoned on the earlier of (1) the expiration date of the certificate, or (2) two years from the date it was issued. Tenn. Code Ann. § 66-29-135(a). A gift certificate may not contain an expiration date that

is less than two years after issuance. Tenn. Code Ann. § 47-18-127(a). If the certificate contains no expiration date, it is valid until redeemed or replaced with a new card. Dormancy fees cannot be imposed for two years after issuance. Tenn. Code Ann. §§ 47-18-127(b) and (c). For a gift certificate issued after 1996 that is redeemable for merchandise only, the amount presumed abandoned is 60% of its face value. Tenn. Code Ann. § 66-29-135(b). A gift certificate issued after 1998 is not subject to escheat in Tennessee if no dormancy fee is imposed and the certificate states that it does not expire, it bears no expiration date, or it states that the expiration date does not apply in Tennessee. Tenn. Code Ann. § 66-29-135(c). The prohibitions against expiration dates and dormancy fees do not apply if the gift card: (a) is distributed by an issuer to a consumer pursuant to an awards, loyalty, or promotional program, as long as the consumer does not give money or any other thing of value in exchange for the gift certificate; (b) is sold below face value at a volume discount to employers or to nonprofit or charitable organizations for fundraising purposes; (c) is sold by a nonprofit or charitable organization for fundraising purposes; (d) is given by an employer to an employee for use at the employer's business establishment (including a group of merchants affiliated with that business establishment); (e) is usable at multiple, unaffiliated sellers of goods and services; or (f) is given by an employer to an employee in recognition of services performed. Tenn. Code Ann. § 47-18-127(d). Gift certificates do not include prepaid calling cards. Tenn. Code Ann. § 47-18-127(e). Tennessee law appears unsettled regarding whether an expired gift certificate would escheat to the state.

Texas:

Not covered specifically. Generally, Tex. Prop. Code Ann. § 72.101 (Vernon). Generally, gift certificates escheat after three years. Tex. Prop. Code Ann. § 72.101(a). If the holder of the card is unknown, the escheat period may be shorter (3 years or the expiration date of the card, whichever is shorter). Tex. Prop. Code Ann. § 72.1016(b). Effective September 1, 2005, Texas will specifically permit expiration dates. It will also permit fees if they are reasonable, not imposed until after one year after the card is issued or sold, and it is conspicuously disclosed at the time the card is issued or sold. Tex. Bus. & Com. Code Ann. § 35.42(e). An expiration date and fees that may reduce the card's value must be legibly printed on it. Tex. Bus. & Com. Code Ann. § 35.42(f). The new law contains an exemption for gift certificates distributed by an issuer pursuant to an awards, rewards, loyalty, incentive, rebate, or promotional program, as long as the recipient does not give money in exchange, sold below face value or donated to employees of the seller or issuer, to nonprofit organizations, or to educational institutions for fundraising purposes, to prepaid calling cards, to gift certificates that do not contain a fee or expiration date that the new law specifically permits, to gift cards

that are issued by an air carrier holding a certificate of public convenience, and to gift cards that are issued by federally-insured financial institutions (*i.e.*, stored value cards that can be used at multiple unaffiliated sellers). Tex. Bus. & Com. Code Ann. §§ 35.42(b) and (c).

Utah: Generally, Utah Code Ann. § 67-4a-101 *et seq.* Five years for gift certificates of more than \$25. Utah Code Ann. §§ 67-4a-102(14)(a) and 67-4a-211. Detailed record keeping is required.

Vermont: Generally, Vt. Stat. Ann. tit. 27, § 1208 *et seq.* Gift certificates are not specifically included in the detailed definition of intangible property and are not subject to escheat. Vt. Stat. Ann. tit. 27, § 1241(13). Effective July 1, 2005, Vermont prohibits gift certificates from expiring before 3 years after issuance, and it prohibits dormancy or any other fees that reduce a certificate's value. Vt. Stat. Ann. tit. 8, §§ 2702 and 2703(a). The expiration date must be clearly identified on the certificate or card or otherwise made available, if not the certificate or card is deemed to have no expiration dates. Following the expiration date of the certificate, the unused portion of the gift certificate shall be returned to the holder of the gift certificate, if requested. Vt. Stat. Ann. tit. 8, § 2702. If the remaining value on a gift certificate is less than \$1.00, the certificate or card is redeemable in cash upon demand. Vt. Stat. Ann. tit. 8, § 2704. At the holder's request, the issuer must provide the amount of the unused balance left on the card and its expiration date. Vt. Stat. Ann. tit. 8, § 2705. The new law exempts (a) a gift certificate issued pursuant to an awards or loyalty program where no money or other thing of value is given in exchange for the gift certificate, provided that the expiration date is clearly and legibly disclosed on the gift certificate, (b) a gift certificate donated to a charitable organization and used for fund-raising, without any money or other thing of value being given in exchange for the gift certificate by the charitable organization, provided that the expiration date is clearly and legibly printed on the gift certificate, (c) prepaid calling cards, (d) a gift certificate for a food product, provided the expiration date is clearly and legibly printed on the certificate in at least 10-point font, and (e) a season pass, a discount ski card, or a record sold for admission to any seasonal recreational activity. Vt. Stat. Ann. tit. 8, § 2707.

Virginia: Generally, Va. Code Ann. § 55-210.1 *et seq.* (Michie). Gift certificates redeemable in merchandise, for future services, or through future purchases are exempt from escheat. Va. Code Ann. § 55-210.8:1(B). Five years for other gift certificates issued in the ordinary course of business. Va. Code Ann. § 55-210.8:1(A). Virginia law requires a gift certificate issued by a merchant in Virginia to have clearly and permanently affixed to it either an expiration date for the certificate or a telephone number or

Internet address at which information about its expiration and diminution in value over time (if any) may be obtained. Va. Code Ann. § 59.1-531.

Washington:

Generally, Wash. Rev. Code § 63.29.010 *et seq.* Gift cards or certificates issued on or after July 1, 2004 cannot contain expiration dates, dormancy charges, or any other fees (including services fees). Wash. Rev. Code § 19.240.020. There are some minor exceptions to these prohibitions. For example, certificates may contain expiration dates if: (a) they are distributed by an issuer pursuant to an awards, loyalty, or promotional program, as long as the recipient does not give money or any other thing of value in exchange for the gift certificate, or they are donated to charity to be used solely to provide charitable services; (b) they are donated to charity for use in its fundraising, as long as the expiration date is at least one year from the date they are issued by the charity; or (c) they are redeemable for goods or services provided in the state by artistic and cultural organizations. Wash. Rev. Code §§ 19.240.030, 19.240.050, and 19.240.060. Gift certificates may contain dormancy fees if (1) the value remaining on the gift card is \$5.00 or less each time the fee is assessed, (2) the dormancy fee is \$1.00 per month or less, (3) the card has been inactive for 24 consecutive months (for example, no purchases, “reloading,” or balance inquiries), (4) the holder may reload or add value to the card, and (5) the card contains a statement in at least 6-point type stating the amount and frequency of the fee, that the fee is triggered by inactivity, and at what point the fee will be charged, and (6) after a dormancy fee is imposed, the remaining value of the certificate is redeemable in cash on demand. Wash. Rev. Code §§ 19.240.040. Gift certificates are no longer subject to escheat, including those that may contain expiration dates and dormancy fees as set forth in Wash. Rev. Code §§ 19.240.030 through 19.240.060. Wash. Rev. Code § 63.29.020(6). Otherwise, gift certificates issued in the ordinary course of business escheat after three years. Wash. Rev. Code § 63.29.140. The prohibition of expiration dates and dormancy fees does not apply to gift certificates issued by financial institutions. Wash. Rev. Code §§ 19.240.100.

West Virginia:

Generally, W. Va. Code § 36-8-1 *et seq.* Three years after December 31 of the year sold for gift certificates. If a gift certificate is redeemable only in merchandise, the amount presumed abandoned is valued at 60% of the face value of the gift certificate. W. Va. Code § 36-8-2(a)(7). A gift certificate that expires before it is used escheats to the state. W. Va. Code § 36-8-19.

Wisconsin:

Generally, Wisc. Stat. § 177.01 *et seq.* Gift certificates are not specifically included in the definition of property subject to escheat. (Wisc. Stat. § 177.14 no longer includes gift certificates.)

Wyoming:

Generally, Wyo. Stat. § 34-24-100 *et seq.* Three years for gift certificates of more than \$100. Wyo. Stat. § 34-24-114(a). Apparently, escheat does not apply to gift certificates that are \$100 or less. Wyoming does not prohibit expiration dates on gift certificates, but it does have detailed record keeping requirements. Wyo. Stat. §§ 34-24-114(d) and 34-24-118.