

STAND. COM. REP. NO.

1601

Honolulu, Hawaii

APR 05 2007

RE: H.B. No. 936
H.D. 2
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and Affordable Housing, to which was referred H.B. No. 936, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO GIFT CERTIFICATES,"

begs leave to report as follows:

The purpose of this measure is to prohibit gift certificate issuers from charging back-end services fees for dormancy or inactivity during the first twenty-four months after the gift certificate was issued. This measure also requires gift certificate issuers to disclose service fees and prohibits gift certificate issuance fees.

Your Committee received testimony in support of this measure from American Express and VISA U.S.A., Inc. The Office of Consumer Protection of the Department of Commerce and Consumer Affairs, Retail Merchants of Hawaii, and the Hawaii Food Industry Association submitted testimony in opposition. Comments were submitted by the Hawaii Credit Union League.

Your Committee finds that there are two different types of gift certificates. The first type is a single merchant certificate in which the recipient is limited to purchasing goods from a single merchant. The second type is the multi-seller certificate that enables a recipient to use the certificate at a variety of different stores.



Your Committee further finds existing law allows for limited availability of multi-seller certificates in the State. However, your Committee believes that it is important to strike a balance between giving consumers more choices with regard to gift certificates and protecting them from certain types of fees.

Therefore, your Committee has amended this measure by:

- (1) Allowing gift certificate issuers to charge a fee of no more than \$2 per gift certificate at the time of purchase; provided that certain disclosure requirements are met and that the issuance fee is not deducted from the initial balance of the certificate;
- (2) Prohibiting back-end service fees for dormancy, maintenance, and inactivity;
- (3) Allowing a gift certificate issuer to charge a fee of no more than \$2 for a replacement gift certificate;
- (4) Amending the definition of "gift certificate" or "certificate" to exclude certain types of electronic access devices, such as prepaid debit cards and payroll cards that are used to withdraw or transfer funds from a deposit and are not primarily intended for use as a gift; and
- (5) Changing the effective date of this measure in order to promote further discussion.

Your Committee notes that, in allowing gift certificate issuers to charge a \$2 replacement fee, such a replacement fee should only be charged when a gift certificate is lost, stolen, or mutilated.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 936, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 936, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Affordable
Housing,


BRIAN T. TANIGUCHI, Chair



