

## Will New Jersey Join Other States Requiring Cash Back for Certain Stored Value Cards?

by Deborah S. Thoren-Peden, JiJi Park, Amy L. Pierce, and Jennifer So

---

*On June 25, 2012, both the New Jersey Assembly and Senate voted to approve Senate Bill 1928, an act amending, among other laws, P.L. 2010, c.25. This law has been the subject of much controversy since it became effective in July of 2010, with litigation filed seeking to prevent its enforcement. In response, S.B. 1928 addresses the concerns raised about escheatment of stored value cards and other prepaid products, as well as newly enacted data collection obligations. S.B. 1928 would also impose on merchants and others a cash-back obligation on certain stored value cards, effective September 1, 2012.*

---

Having been passed by both the New Jersey Assembly and Senate, S.B.1928 awaits only Governor Chris Christie's signature. Introduced on May 14 in the Senate, the bill contemplates that "[b]eginning September 1, 2012 if a stored value card is redeemed and a balance of less than \$5 remains on the card after redemption, at the owner's request the merchant or other entity redeeming the card shall refund the balance in cash to the owner." This new obligation would not apply to (1) a non-reloadable stored value card with an initial value of \$5 or less; or (2) a stored value card that is not purchased but is provided in lieu of a refund for returned merchandise; or (3) a stored value card that can be redeemed at multiple merchants that are not under common ownership or control, including but not limited to network-branded stored value cards. S.B. 1928 otherwise does not impose an obligation to advertise the availability of a cash refund but the issuer may elect to include a disclosure or a statement on the stored value card or other marketing materials that the card "is not redeemable for cash except as required by law" or similar statement.

Although New Jersey would be only one of a handful of other states to impose a cash-back obligation on redeemers of stored value cards that reach a certain threshold balance, the state's legislation also contemplates significant civil penalties for a violation of the law. "A merchant or other entity required to comply with the provisions of this subsection shall be liable to a penalty of \$500 for each violation plus restitution of the amount of the cash value remaining on the stored value card, provided however that the amount of the penalty shall be trebled for an aggregate of such violations occurring during any 12 month period. Failure to provide requested cash redemption for each stored value card shall be considered a

separate violation.” The Director of the Division of Consumer Affairs, or the director’s designee, is empowered to enforce the law and “to assess a penalty against the person alleged to have committed the violation.... [and] return to the owner of the card the amount of the cash value remaining on the card.” It contemplates that “this shall be the sole remedy available to the owner for those violations.”

[Click here to read New Jersey Senate Bill 1928.](#)

---

If you have questions, please contact the Pillsbury attorney with whom you regularly work or the authors:

Deborah S. Thoren-Peden [\(bio\)](#)  
Los Angeles  
+1.213.488.7320  
[deborah.thorenpeden@pillsburylaw.com](mailto:deborah.thorenpeden@pillsburylaw.com)

JiJi Park [\(bio\)](#)  
Los Angeles  
+1.213.488.7588  
[jiji.park@pillsburylaw.com](mailto:jiji.park@pillsburylaw.com)

Amy L. Pierce [\(bio\)](#)  
Sacramento  
+1.916.329.4765  
[amy.pierce@pillsburylaw.com](mailto:amy.pierce@pillsburylaw.com)

Jennifer So [\(bio\)](#)  
Los Angeles  
+1.213.488.7558  
[jennifer.so@pillsburylaw.com](mailto:jennifer.so@pillsburylaw.com)

This publication is issued periodically to keep Pillsbury Winthrop Shaw Pittman LLP clients and other interested parties informed of current legal developments that may affect or otherwise be of interest to them. The comments contained herein do not constitute legal opinion and should not be regarded as a substitute for legal advice.

© 2012 Pillsbury Winthrop Shaw Pittman LLP. All Rights Reserved.