

Under Senate Bill 885, \$10 Threshold for Gift Card Cash Refunds Will Be Upped to \$20

by Greg L. Johnson, Deborah S. Thoren-Peden and Amy L. Pierce

Senate Bill 885 proposes that gift cards with a cash value of less than \$20 be redeemable in cash for their cash value, and to delete the exceptions to the prohibition on the sale of gift certificates that contain a dormancy fee.

On January 19, 2010, Senator Ellen M. Corbett introduced Senate Bill 885, an act to amend California Civil Code § 1749.5 relating to gift certificates. Existing law provides that a gift certificate¹ sold after January 1, 1997, is redeemable in cash or subject to replacement with a new gift certificate (Civ. Code § 1749.5(b)(1))² and, if the gift certificate has a balance of less than \$10, it is redeemable in cash for its cash value upon request by the consumer (Civ. Code § 1749.5(b)(2)).³ Existing law also prohibits the selling of a gift certificate that contains a dormancy fee, subject to specified exceptions (Civ. Code § 1749.5(e)). As currently drafted, Senate Bill 885 will require that a gift certificate with a balance of less than \$20 be redeemable in cash for its cash value. It will also require a statement “printed on the gift certificate in at least 10-point font stating that any gift certificate with a cash value of less than twenty dollars (\$20) is redeemable in cash for its cash value;” this statement may appear anywhere on the gift certificate so long as it is visible to any purchaser prior to the purchase of a gift certificate.⁴ Senate Bill 885 also proposes to delete the exceptions to the prohibition on the sale of gift certificates that contain a dormancy fee.

There are reports that the California Retailers Association intends to oppose the bill.

If you have any questions about the content of this advisory or having a voice on this issue, please contact the Pillsbury attorney with whom you regularly work, or the authors of this advisory.

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- ¹ The term “gift certificate” includes a gift card, and the term “cash” includes currency or check. Civ. Code § 1749.45(a), (h).
- ² The Second District Appellate Court held on two occasions that the merchant at its sole discretion may elect to either refund the balance or issue a replacement gift certificate. See Pillsbury Advisory entitled “The \$10 Limit: Court Clarifies California’s Law on Redemption of Retail Gift Cards,” January 25, 2010.
- ³ Senator Corbett’s 2007 bill, Senate Bill 250, established the current limit of less than \$10.
- ⁴ As currently drafted, Senate Bill 885 does not amend Subdivision (d) of Section 1749.5. Subdivision (d) states that Section 1749.5 “does not apply to any of the following gift certificates issued on or after January 1, 1998, provided the expiration date appears in capital letters in at least 10-point font on the front of the gift certificate: (1) Gift certificates that are distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer. (2) Gift certificates that are donated or 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 gift certificates is not more than 30 days after the date of sale. (3) Gift certificates that are issued for perishable food products.”

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