S T A T E O F N E W Y O R K

1541

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. REILLY, MARKEY, JAFFEE, BENEDETTO, DelMONTE, TOWNS, ROSENTHAL, PEOPLES, MAISEL, J. RIVERA -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, GALEF, GLICK, GREENE, KOON, LUPARDO, MAYERSOHN, McENENY, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring retailers to hold in escrow the value of gift certificates issued

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 396-ii to read as follows:

S 396-II. GIFT CERTIFICATE ESCROW ACCOUNT. 1. FOR THE PURPOSES OF THIS SECTION, "GIFT CERTIFICATE" IS DEFINED BY SECTION THREE HUNDRED NINETY-SIX-I OF THIS ARTICLE.

2. ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION WHO OR WHICH ISSUES GIFT CERTIFICATES MUST DEPOSIT AND HOLD FUNDS EQUAL TO THE FACE VALUE OF SUCH ISSUED GIFT CERTIFICATE IN AN ESCROW ACCOUNT.

3. UPON THE CLOSING OR BANKRUPTCY OF ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION HAVING ISSUED GIFT CERTIFICATES, THE HOLDER OF A GIFT CERTIFICATE SHALL BE ENTITLED TO REIMBURSEMENT IN THE AMOUNT EQUAL TO THE FACE VALUE OF THE GIFT CERTIFICATE FROM THE FUNDS HELD IN ESCROW AS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION.

4. THE TERMS AND CONDITIONS OF THE GIFT CERTIFICATE ESCROW ACCOUNT SHALL BE CLEARLY AND CONSPICUOUSLY STATED IN ACCORDANCE WITH SECTION THREE HUNDRED NINETY-SIX-I OF THIS ARTICLE. TERMS AND CONDITIONS SHALL INCLUDE THE EXISTENCE OF THE GIFT CERTIFICATE ESCROW ACCOUNT AND THE EVENTS UPON WHICH A HOLDER OF A GIFT CERTIFICATE IS ENTITLED TO REIMBURSEMENT FROM SUCH ACCOUNT AS PRESCRIBED IN SUBDIVISION THREE OF THIS SECTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03747-01-9

S 2. Subdivision 3 of section 396-i of the general business law, as amended by chapter 507 of the laws of 2004, is amended to read as follows:

3. The terms and conditions of a gift certificate store credit shall be clearly and conspicuously stated thereon. Terms and conditions shall include the expiration date, whether any fees are assessed against the balance of the gift certificate, and whether a fee will be charged for the replacement of a gift certificate that is lost, stolen, or destroyed. Additional terms and conditions including, but not be limited to, policies related to refunds, warranties, POLICIES RELATING TO THE GIFT CERTIFICATE ESCROW ACCOUNT, changes in terms and conditions, assignment and waiver shall be conspicuously printed: (a) on the gift certificate; or (b) on an envelope or packaging containing the gift certificate, provided that a toll free telephone number to access the additional terms and conditions is printed on the gift certificate; or (c) on an accompanying printed document, provided that a toll free telephone number to access the additional terms and conditions is printed on the gift certificate.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.