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**SUBSTITUTE HOUSE BILL 1313**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House Consumer Protection & Business (originally sponsored by Representatives Kirby, Vick, Jenkin, Stokesbary, Reeves, Young, and Hoff)

AN ACT Relating to rewards cards; amending RCW 63.29.020 and 63.29.140; and reenacting and amending RCW 63.29.010.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 63.29.010 and 2012 c 117 s 177 are each reenacted and amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(2) "Attorney general" means the chief legal officer of this state referred to in chapter 43.10 RCW.

(3) "Banking organization" means a bank, trust company, savings bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

(4) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

(5) "Department" means the department of revenue established under RCW 82.01.050.

(6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(7) "Fare card" means any pass or instrument, and value contained therein, purchased to utilize public transportation facilities or services. "Fare card" does not include "gift card" or "gift certificate" as those terms are defined in RCW 19.240.010.

(8) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, or credit union.

(9) "Gift certificate" has the same meaning as in RCW 19.240.010, regardless of whether the gift certificate is represented by a card or an electronic record.

(10) "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee; or

(c) Indebted to another on an obligation.

(11) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.

(12) "Intangible property" does not include contract claims which are unliquidated but does include:

(a) Moneys, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances, but does not include discounts which represent credit balances for which no consideration was given;

(c) Stocks, and other intangible ownership interests in business associations;

(d) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Liquidated amounts due and payable under the terms of insurance policies; and

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(13) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(14) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative.

(15) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

(16) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(17) "Third party bank check" means any instrument drawn against a customer's account with a banking organization or financial organization on which the banking organization or financial organization is only secondarily liable.

(18) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(19) "Cardholder" means the holder of a rewards card, regardless of whether the rewards card is represented by a card or an electronic record.

(20)(a) "Rewards card" means any loyalty, incentive, or promotional program managed by a financial institution, whether represented by a card or electronic record, and established for the purpose of providing cardholder rewards or other amounts to compensate the cardholder for the cardholder's relationship with the entity sponsoring the rewards card, provided that no direct money was paid by the cardholder for the rewards card.

(b) A rewards card includes:

(i) Cards or electronic records consisting of points, cash, or other tokens of value given to a cardholder as a reward or incentive for engaging in a transaction or a series of transactions; or

(ii) The portion of a rewards card funded by the issuer as a reward or incentive when the rewards card is partially loaded by the cardholder.

(21) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association authorized to do business in this state under state or federal law.

(22) "Direct money" means any payment, except a minimum annual fee, charged to the cardholder for any loyalty, incentive, or promotional program associated with a rewards card.

**Sec.**  RCW 63.29.020 and 2015 3rd sp.s. c 6 s 2101 are each amended to read as follows:

(1) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

(2) Property, with the exception of unredeemed Washington state lottery tickets and unpresented winning parimutuel tickets, is payable and distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

(3) This chapter does not apply to claims drafts issued by insurance companies representing offers to settle claims unliquidated in amount or settled by subsequent drafts or other means.

(4) This chapter does not apply to property covered by chapter 63.26 RCW.

(5) This chapter does not apply to used clothing, umbrellas, bags, luggage, or other used personal effects if such property is disposed of by the holder as follows:

(a) In the case of personal effects of negligible value, the property is destroyed; or

(b) The property is donated to a bona fide charity.

(6) This chapter does not apply to a rewards card, or to a gift certificate lawfully issued under chapter 19.240 RCW, except lawfully issued gift certificates presumed abandoned under RCW 63.29.110. Nothing in this section limits the application of chapter 19.240 RCW.

(7) Except as provided in RCW 63.29.350, this chapter does not apply to excess proceeds held by counties, cities, towns, and other municipal or quasi-municipal corporations from foreclosures for delinquent property taxes, assessments, or other liens.

(8)(a) This chapter does not apply to a premium paid by an agricultural fair by check.

(b) For the purposes of this subsection the following definitions apply:

(i) "Agricultural fair" means a fair or exhibition that is intended to promote agriculture by including a balanced variety of exhibits of livestock and agricultural products, as well as related manufactured products and arts, including: Products of the farm home and educational contests, displays, and demonstrations designed to train youth and to promote the welfare of farmers and rural living; and

(ii) "Premium" means an amount paid for exhibits and educational contests, displays, and demonstrations of an educational nature. A "premium" does not include judges' fees and expenses; livestock sale revenues; or prizes or amounts paid for promotion or entertainment activities such as queen contests, parades, dances, rodeos, and races.

**Sec.**  RCW 63.29.140 and 2015 3rd sp.s. c 6 s 2102 are each amended to read as follows:

(1) A gift certificate or a credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.

(2) In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

(3) A gift certificate that is lawfully issued under chapter 19.240 RCW and that is presumed abandoned under this section may, but need not, be((~~,~~)) included in the report as provided under RCW 63.29.170(4).

(4) A rewards card must not be included in the report as provided under RCW 63.29.170.

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