

SENATE BILL REPORT

SB 5988

As of January 12, 2024

Title: An act relating to gift certificates as unclaimed property.

Brief Description: Concerning gift certificates as unclaimed property.

Sponsors: Senators Trudeau, Nguyen, Conway, Dhingra, Frame, Hasegawa, Keiser, Kuderer, Lias, Nobles, Saldaña, Stanford, Valdez and Wilson, C..

Brief History:

Committee Activity: Ways & Means: 1/16/24.

Brief Summary of Bill

- Requires gift certificates, including gift cards, to be reported as unclaimed property after three years for holders with total revenue exceeding \$100 million.
- Exempts gift certificates from reporting as unclaimed property if the gift certificate allows for purchases exclusively through paid membership programs costing at least \$50 annually.
- Modifies the requirement for holders of property presumed abandoned to send a notification to the apparent owner by changing the property value from \$75 to \$50.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Tianyi Lan (786-7432)

Background: Unclaimed Property. Unclaimed property is monetary assets or tangible property held by an organization that has lost contact with the owner. Property is considered unclaimed after it has been held for a designated period of time with no activity or owner contact, and a good faith effort has been made to locate the owner.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Generally speaking, the dormancy period is three years except that the state law sets specific time periods for certain types of property. The holder of property presumed abandoned must provide notice to the apparent owner if the value of the property is \$75 or more. It is then turned over to the state to safeguard until it is returned to the owner.

Typical unclaimed property includes bank accounts, insurance proceeds, securities, utility and phone company deposits, uncashed checks, safe deposit box or bank repository contents, and customer/patient credits. Unclaimed property does not include real estate, vehicles, and most other physical property.

Each year, banks and other businesses turn over unclaimed property to the state. The funds are held in perpetuity until claimed by the rightful owner or heir. Specific for safe deposit box contents, if the owner does not claim the items, the state must sell the contents at public auction within five years. Proceeds from each sale, less any auction and bank fees, are available for the owner to claim indefinitely.

The Department of Revenue (DOR) is the custodian for unclaimed property, and administers Unclaimed Property program to find the rightful owners. Certain entities are required to report unclaimed property to DOR, including banking and financial institutions, utilities, businesses, and governments. These businesses and other entities report unclaimed property annually by October 31 and are typically referred to as holders. Any individual or business can search DOR's system for unclaimed property DOR is holding in their name. If they find property in their name, the owner or claimant can file to get their property back. This may include an heir or someone filing for an elder who cannot file on their own.

Since 1955, over \$3 billion in unclaimed property has been turned over to DOR. In fiscal year 2023, the Unclaimed Property program received property worth more than \$322 million and returned \$138.9 million of the unclaimed property received to its rightful owners.

Gift Certificates. Gift certificates, including gift cards, abandoned are not required to be reported as unclaimed property. Gift certificates are defined in statute as an instrument evidencing a promise by the seller that consumer goods or services will be provided to the bearer of the record to the value or credit shown in the record. A gift card is a gift certificate in the form of a card, or a stored value card or other physical medium, containing stored value primarily intended to be exchanged for consumer goods and services. Customers may request a cash refund if their gift certificate balance is less than \$5.

Gift certificates and gift cards may not charge dormancy or inactivity fees. Expiration dates are not allowed for any gift cards or gift certificates, except for:

- those issued pursuant to an awards or loyalty program; and
- gift certificates donated to a charitable organization without any money or other thing of value given in exchange.

Gift certificates with an allowable expiration date must clearly and legibly disclose the expiration date on the gift certificate.

Summary of Bill: Gift certificates, including gift cards, are presumed abandoned if they remain unclaimed by the owner for more than three years after becoming payable or distributable and must be reported to DOR, similar to other types of unclaimed property.

Gift certificates issued by a holder for products, goods, or services exclusively through paid membership programs costing at least \$50 annually are exempt from unclaimed property reporting requirements.

Businesses whose total revenue does not exceed \$100 million in the prior fiscal year are exempt from unclaimed property reporting requirements for gift certifications.

Holders who have reported the funds on gift certificates as presumed abandoned and delivered the property to DOR must accept the presumed abandoned gift certificate as payment from the owner, if DOR has not notified the holder the property has been claimed. The holder may file a claim for reimbursement from DOR.

The bill applies to gift certificates issued or reloaded with funds on or after July 1, 2024.

The property value threshold requiring a holder of property presumed abandoned to send notice to the apparent owner is lowered from \$75 to \$50.

Appropriation: None.

Fiscal Note: Requested on January 6, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.