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By Representatives Alvarado, Berry, Ryu, Senn, Reed, Gregerson, Ormsby, Ramel, Macri, Street, Chopp, Mena, Goodman, Berg, Doglio, Cortes, Wylie, Pollet, and Kloba

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1 AN ACT Relating to gift certificates as unclaimed property;
2 amending RCW 19.240.005, 63.30.010, and 63.30.280; adding a new
3 section to chapter 63.30 RCW; and creating a new section.

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

5 **Sec. 1.** RCW 19.240.005 and 2004 c 168 s 1 are each amended to
6 read as follows:

7 ~~((It is the intent of the legislature to relieve businesses from
8 the obligation of reporting gift certificates as unclaimed
9 property.))~~ The legislature intends that consumers have the option to
10 collect balances on abandoned gift certificates either directly
11 through the retailer or through Washington's unclaimed property
12 program. Washington's unclaimed property program is a free public
13 service that returned over \$100,000,000 in property to rightful
14 owners in fiscal year 2023. The legislature finds that giving
15 consumers the option to collect balances from abandoned gift
16 certificates through unclaimed property will reduce the incentive for
17 large companies to adopt predatory or deceptive practices regarding
18 gift certificate usage because companies must escheat abandoned gift
19 certificate balances while they remain unspent and, therefore, will
20 not be able to keep revenue from unspent gift certificates. The
21 legislature intends to exempt small businesses from the requirements

1 for reporting gift certificates as unclaimed property. The
2 legislature finds that funds for the unclaimed property account are
3 tracked by the Washington state economic and revenue forecast council
4 and are part of state nontax sources that provide funding for state
5 government and its existing institutions. In order to protect
6 consumers, the legislature intends to prohibit acts and practices of
7 retailers that deprive consumers of the full value of gift
8 certificates, such as expiration dates, service fees, and dormancy
9 and inactivity charges, on gift certificates. The legislature does
10 not intend that this chapter (~~(168, Laws of 2004)~~) be construed to
11 apply to cards or other payment instruments issued for payment of
12 wages or other intangible property. To that end, the legislature
13 intends that this chapter (~~(168, Laws of 2004)~~) should be liberally
14 construed to benefit consumers and that any ambiguities should be
15 resolved by applying the (~~{revised}~~) revised uniform unclaimed
16 property act to the intangible property in question.

17 **Sec. 2.** RCW 63.30.010 and 2022 c 225 s 102 are each amended to
18 read as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

21 (1) "Administrator" means the department of revenue established
22 under RCW 82.01.050.

23 (2) "Administrator's agent" means a person with which the
24 administrator contracts to conduct an examination under RCW 63.30.570
25 through 63.30.690 on behalf of the administrator. The term includes
26 an independent contractor of the person and each individual
27 participating in the examination on behalf of the person or
28 contractor.

29 (3) "Apparent owner" means a person whose name appears on the
30 records of a holder as the owner of property held, issued, or owing
31 by the holder.

32 (4) "Business association" means a corporation, joint stock
33 company, investment company other than an investment company
34 registered under the investment company act of 1940, as amended, 15
35 U.S.C. Secs. 80a-1 through 80a-64, partnership, unincorporated
36 association, joint venture, limited liability company, business
37 trust, trust company, land bank, safe deposit company, safekeeping
38 depository, financial organization, insurance company, federally

1 chartered entity, utility, sole proprietorship, or other business
2 entity, whether or not for profit.

3 (5) "Confidential information" means records, reports, and
4 information that are confidential under RCW 63.30.820.

5 (6) "Domicile" means:

6 (a) For a corporation, the state of its incorporation;

7 (b) For a business association whose formation requires a filing
8 with a state, other than a corporation, the state of the principal
9 place of business of such a business association, if formed under the
10 laws of a state other than the state in which its principal place of
11 business is located, unless determined to be otherwise by a court of
12 competent jurisdiction;

13 (c) For a federally chartered entity or an investment company
14 registered under the investment company act of 1940, as amended, 15
15 U.S.C. Secs. 80a-1 through 80a-64, the state of its home office; and

16 (d) For any other holder, the state of its principal place of
17 business.

18 (7) "Electronic" means relating to technology having electrical,
19 digital, magnetic, wireless, optical, electromagnetic, or similar
20 capabilities.

21 (8) "Email" means a communication by electronic means which is
22 automatically retained and stored and may be readily accessed or
23 retrieved.

24 (9) "Financial organization" means a savings and loan
25 association, building and loan association, savings bank, industrial
26 bank, bank, banking organization, or credit union.

27 (10) "Game-related digital content" means digital content that
28 exists only in an electronic game or electronic game platform. The
29 term:

30 (a) Includes:

31 (i) Game-play currency such as a virtual wallet, even if
32 denominated in United States currency; and

33 (ii) The following if for use or redemption only within the game
34 or platform or another electronic game or electronic game platform:

35 (A) Points sometimes referred to as gems, tokens, gold, and
36 similar names; and

37 (B) Digital codes; and

38 (b) Does not include an item that the issuer:

39 (i) Permits to be redeemed for use outside a game or platform
40 for:

1 (A) Money; or

2 (B) Goods or services that have more than minimal value; or

3 (ii) Otherwise monetizes for use outside a game or platform.

4 (11) "Gift certificate" means a record described in RCW
5 19.240.010, and includes both gift cards and gift certificates,
6 including both tangible instruments and electronic records. A "gift
7 certificate" that stores, or allows customers to earn, loyalty points
8 is still a gift certificate.

9 (12) "Holder" means a person obligated to hold for the account
10 of, or to deliver or pay to, the owner, property subject to this
11 chapter.

12 (13) "Insurance company" means an association, corporation, or
13 fraternal or mutual benefit organization, whether or not for profit,
14 engaged in the business of providing life endowments, annuities, or
15 insurance, including accident, burial, casualty, credit life,
16 contract performance, dental, disability, fidelity, fire, health,
17 hospitalization, illness, life, malpractice, marine, mortgage,
18 surety, wage protection, and worker compensation insurance.

19 (14) "Loyalty card" means a record given without direct monetary
20 consideration under an award, reward, benefit, loyalty, incentive,
21 rebate, or promotional program which may be used or redeemed only to
22 obtain goods or services or a discount on goods or services. The term
23 does not include a record that may be redeemed for money or otherwise
24 monetized by the issuer.

25 (15) "Mineral" means gas, oil, coal, oil shale, other gaseous
26 liquid or solid hydrocarbon, cement material, sand and gravel, road
27 material, building stone, chemical raw material, gemstone,
28 fissionable and nonfissionable ores, colloidal and other clay, steam
29 and other geothermal resources, and any other substance defined as a
30 mineral by law of this state other than this chapter.

31 (16) "Mineral proceeds" means an amount payable for extraction,
32 production, or sale of minerals, or, on the abandonment of the
33 amount, an amount that becomes payable after abandonment. The term
34 includes an amount payable:

35 (a) For the acquisition and retention of a mineral lease,
36 including a bonus, royalty, compensatory royalty, shut-in royalty,
37 minimum royalty, and delay rental;

38 (b) For the extraction, production, or sale of minerals,
39 including a net revenue interest, royalty, overriding royalty,
40 extraction payment, and production payment; and

1 (c) Under an agreement or option, including a joint operating
2 agreement, unit agreement, pooling agreement, and farm-out agreement.

3 (17) "Money order" means a payment order for a specified amount
4 of money. The term includes an express money order and a personal
5 money order on which the remitter is the purchaser.

6 (18) "Municipal bond" means a bond or evidence of indebtedness
7 issued by a municipality or other political subdivision of a state.

8 (19) "Net card value" means the original purchase price or
9 original issued value of a stored value card, plus amounts added to
10 the original price or value, minus amounts used and any service
11 charge, fee, or dormancy charge permitted by law.

12 (20) "Nonfreely transferable security" means a security that
13 cannot be delivered to the administrator by the depository trust
14 clearing corporation or similar custodian of securities providing
15 posttrade clearing and settlement services to financial markets or
16 cannot be delivered because there is no agent to effect transfer. The
17 term includes a worthless security.

18 (21) "Owner" means a person that has a legal, beneficial, or
19 equitable interest in property subject to this chapter or the
20 person's legal representative when acting on behalf of the owner. The
21 term includes:

22 (a) A depositor, for a deposit;

23 (b) A beneficiary, for a trust other than a deposit in trust;

24 (c) A creditor, claimant, or payee, for other property; and

25 (d) The lawful bearer of a record that may be used to obtain
26 money, a reward, or a thing of value.

27 (22) "Payroll card" means a record that evidences a payroll card
28 account as defined in Regulation E, 12 C.F.R. Part 1005, as it
29 existed on January 1, 2023.

30 (23) "Person" means an individual, estate, business association,
31 public corporation, government or governmental subdivision, agency,
32 or instrumentality, or other legal entity.

33 (24) "Property" means tangible property described in RCW
34 63.30.080 or a fixed and certain interest in intangible property
35 held, issued, or owed in the course of a holder's business or by a
36 government, governmental subdivision, agency, or instrumentality. The
37 term:

38 (a) Includes all income from or increments to the property;

39 (b) Includes property referred to as or evidenced by:

1 (i) Money, virtual currency, interest, or a dividend, check,
2 draft, deposit, or payroll card;

3 (ii) A credit balance, customer's overpayment, stored value card,
4 security deposit, refund, credit memorandum, unpaid wage, unused
5 ticket for which the issuer has an obligation to provide a refund,
6 mineral proceeds, or unidentified remittance;

7 (iii) A security except for:

8 (A) A worthless security; or

9 (B) A security that is subject to a lien, legal hold, or
10 restriction evidenced on the records of the holder or imposed by
11 operation of law, if the lien, legal hold, or restriction restricts
12 the holder's or owner's ability to receive, transfer, sell, or
13 otherwise negotiate the security;

14 (iv) A bond, debenture, note, or other evidence of indebtedness;

15 (v) Money deposited to redeem a security, make a distribution, or
16 pay a dividend;

17 (vi) An amount due and payable under an annuity contract or
18 insurance policy; ~~((and))~~

19 (vii) An amount distributable from a trust or custodial fund
20 established under a plan to provide health, welfare, pension,
21 vacation, severance, retirement, death, stock purchase, profit-
22 sharing, employee savings, supplemental unemployment insurance, or a
23 similar benefit; and

24 (viii) A gift certificate; and

25 (c) Does not include:

26 (i) Property held in a plan described in section 529A of the
27 internal revenue code, as it existed on January 1, 2023, 26 U.S.C.
28 Sec. 529A;

29 (ii) Game-related digital content;

30 (iii) A loyalty card;

31 (iv) ~~((A gift certificate complying with chapter 19.240 RCW;~~
32 ~~(v)))~~ Store credit for returned merchandise; and

33 ~~((vi)))~~ (v) A premium paid by an agricultural fair by check. For
34 the purposes of this subsection, the following definitions apply:

35 (A) "Agricultural fair" means a fair or exhibition that is
36 intended to promote agriculture by including a balanced variety of
37 exhibits of livestock and agricultural products, as well as related
38 manufactured products and arts, including products of the farm home
39 and educational contests, displays, and demonstrations designed to

1 train youth and to promote the welfare of farmers and rural living;
2 and

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

9 (25) "Putative holder" means a person believed by the
10 administrator to be a holder, until the person pays or delivers to
11 the administrator property subject to this chapter or the
12 administrator or a court makes a final determination that the person
13 is or is not a holder.

14 (26) "Record" means information that is inscribed on a tangible
15 medium or that is stored in an electronic or other medium and is
16 retrievable in perceivable form.

17 (27) "Security" means:

18 (a) A security as defined in RCW 62A.8-102;

19 (b) A security entitlement as defined in RCW 62A.8-102, including
20 a customer security account held by a registered broker-dealer, to
21 the extent the financial assets held in the security account are not:

22 (i) Registered on the books of the issuer in the name of the
23 person for which the broker-dealer holds the assets;

24 (ii) Payable to the order of the person; or

25 (iii) Specifically indorsed to the person; or

26 (c) An equity interest in a business association not included in
27 (a) or (b) of this subsection.

28 (28) "Sign" means, with present intent to authenticate or adopt a
29 record:

30 (a) To execute or adopt a tangible symbol; or

31 (b) To attach to or logically associate with the record an
32 electronic symbol, sound, or process.

33 (29) "State" means a state of the United States, the District of
34 Columbia, the Commonwealth of Puerto Rico, the United States Virgin
35 Islands, or any territory or insular possession subject to the
36 jurisdiction of the United States.

37 (30) "Stored value card" means a record evidencing a promise made
38 for consideration by the seller or issuer of the record that goods,
39 services, or money will be provided to the owner of the record to the
40 value or amount shown in the record. The term:

1 (a) Includes:

2 (i) A record that contains or consists of a microprocessor chip,
3 magnetic strip, or other means for the storage of information, which
4 is and whose value or amount is decreased on each use and increased
5 by payment of additional consideration; and

6 (ii) A payroll card; and

7 (b) Does not include (~~a loyalty card, gift certificate, or~~)
8 game-related digital content.

9 (31) "Utility" means a person that owns or operates for public
10 use a plant, equipment, real property, franchise, or license for the
11 following public services:

12 (a) Transmission of communications or information;

13 (b) Production, storage, transmission, sale, delivery, or
14 furnishing of electricity, water, steam, or gas; or

15 (c) Provision of sewage or septic services, or trash, garbage, or
16 recycling disposal.

17 (32) "Virtual currency" means a digital representation of value
18 used as a medium of exchange, unit of account, or store of value,
19 which does not have legal tender status recognized by the United
20 States. The term does not include:

21 (a) The software or protocols governing the transfer of the
22 digital representation of value; or

23 (b) Game-related digital content(~~or~~

24 ~~(c) A loyalty card or gift certificate~~)).

25 (33) "Worthless security" means a security whose cost of
26 liquidation and delivery to the administrator would exceed the value
27 of the security on the date a report is due under this chapter.

28 (34) "Loyalty points" means a benefit to a consumer without
29 direct monetary consideration under an award, reward, benefit,
30 loyalty, incentive, rebate, or promotional program that may be used
31 or redeemed only to obtain goods or services or a discount on goods
32 or services.

33 **Sec. 3.** RCW 63.30.280 and 2022 c 225 s 501 are each amended to
34 read as follows:

35 (1) Subject to subsection (2) of this section, the holder of
36 property presumed abandoned shall send to the apparent owner notice
37 by first-class United States mail that complies with RCW 63.30.290 in
38 a format acceptable to the administrator not more than 180 days nor
39 less than 60 days before filing the report under RCW 63.30.220 if:

1 (a) The holder has in its records an address for the apparent
2 owner which the holder's records do not disclose to be invalid and is
3 sufficient to direct the delivery of first-class United States mail
4 to the apparent owner; and

5 (b) The value of the property is (~~(\$75)~~) \$50 or more.

6 (2) If an apparent owner has consented to receive email delivery
7 from the holder, the holder shall send the notice described in
8 subsection (1) of this section both by first-class United States mail
9 to the apparent owner's last known mailing address and by email,
10 unless the holder believes that the apparent owner's email address is
11 invalid.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 63.30
13 RCW to read as follows:

14 GIFT CARDS PRESUMED ABANDONED. (1) Subject to RCW 63.30.120, a
15 gift certificate is presumed abandoned if it remains unclaimed by the
16 owner for more than three years after becoming payable or
17 distributable.

18 (2) The amount presumed abandoned in a gift certificate is the
19 net value on the gift certificate at the time it is presumed
20 abandoned.

21 (3) A gift certificate that is lawfully issued under chapter
22 19.240 RCW and that is presumed abandoned under this section must be
23 included in the report to the administrator concerning such property
24 as provided in RCW 63.30.220.

25 (4) A holder who has reported the funds on a gift certificate as
26 presumed abandoned under RCW 63.30.220 and delivered the property to
27 the administrator under RCW 63.30.340 must accept the presumed
28 abandoned gift certificate as payment from the owner, if the
29 administrator has not notified the holder that the property has been
30 claimed. The holder may file a claim for reimbursement from the
31 administrator under RCW 63.30.360(1)(b).

32 (5) The administrator must notify the holder if the administrator
33 has paid or delivered to the owner the gift certificate funds under
34 RCW 63.30.550.

35 (6) Gift certificates issued to customers by a holder that allow
36 for the purchasing of products, goods, and services only through paid
37 membership programs, which cost at least \$50 annually, are exempt
38 from the requirements of subsections (1), (2), and (3) of this
39 section.

1 (7) Holders whose total revenue does not exceed \$100,000,000 in
2 the prior fiscal year are exempt from the requirements of subsections
3 (1), (2), and (3) of this section.

4 NEW SECTION. **Sec. 5.** This act applies to gift certificates
5 issued or reloaded with funds on or after July 1, 2024.

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