

PA13-254

SB0912

Banking	540-559, 584-589	26
House	10645-10677	33
Senate	2774-2786, 2791-2797, 2937	21
		80

H - 1180

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VETO
SESSION**

**VOL.56
PART 31
10451 - 10795**

Absent and not voting 5

SPEAKER SHARKEY:

The emergency certified bill as amended is
passed. Representative Aresimowicz.

REP. ARESMOWICZ (30th):

Yes, Mr. Speaker. I move we immediately transmit House Bill 6706 to the Senate for further action.

SPEAKER SHARKEY:

The question is immediate transmittal of the aforementioned bill to the Senate. Is there objection? So ordered. Will the Clerk please call Calendar 636.

THE CLERK:

On page 27, Calendar number 636, favorable report of the joint standing Committee on Banks, substitute Senate Bill 912, AN ACT CONCERNING PREPAID CARDS.

SPEAKER SHARKEY:

Representative Tong, the distinguished Chairman of the Banking Committee. You have the floor, Sir.

REP. TONG (147th):

Good evening, Mr. Speaker.

SPEAKER SHARKEY:

Good evening, Sir.

REP. TONG (147th):

I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

SPEAKER SHARKEY:

The question before the Chamber is acceptance of the joint committee's favorable report and passage of the -- joint committee's favorable report and passage of the bill. Will you proceed, Sir.

REP. TONG (147th):

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO number 7496 designated as Senate Amendment A. I ask that the Clerk please call the amendment and I be permitted leave of the Chamber to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 76 -- 7496 which has been previously designated Senate Amendment A.

THE CLERK:

Senate Amendment A, LCO 7496 introduced by Senator Leone and Representative Tong.

SPEAKER SHARKEY:

The Gentleman seeks leave of the Chamber to summarize. Is there objection? Is there objection? Seeing none, you may proceed with summarization, Sir.

REP. TONG (147th):

Thank you, Mr. Speaker. This is a strike all amendment that becomes the bill and it basically provides that if there is an unexpended balance on a prepaid card that that unexpended balance be returned to the account holder, to their savings account or checking account through available technology. I move adoption.

SPEAKER SHARKEY:

The question before the Chamber is adoption of Senate Amendment A. Will you remark? Will you remark? Representative Wood of the 141st. Would you prefer -- Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. If I may, several questions to the proponent of the amendment that's before us.

SPEAKER SHARKEY:

Please proceed, Sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. And as I understand the amendment, essentially this is going to create a new type of prepaid vehicle that we haven't seen before and if the proponent could talk for a couple of

minutes on what the nature of that is. Through you,
Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Yes. Thank you, Mr. Speaker. Through you.
Technology has enabled us to improve the way that we
manage prepaid cards so if you were to buy a prepaid
card that has a balance on it if you don't use the
whole prepaid card there's the possibility that
instead of that card just laying there useless after
it's expired there's technology now that potentially
could return that card to your savings account or your
interest -- any interest bearing bank account.
Through you.

SPEAKER SHARKEY:

Representative Alerts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. And as I understand it
the card has to be made available for at least 90 days
but the underlying funds that link to the account are
always available. Those are always available. Those
don't expire. Is that not correct? Through you, Mr.
Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Yes, that is consistent with our current law that despite the expiration of any card that the funds remain available and -- and they do not -- the funds so to speak do not expire.

SPEAKER SHARKEY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. And I think one final question. As I understand the way that this would have to operate is there would actually have to be an account that would be linked up at the time that the card was purchased so that the funds could automatically sweep back into that account if there were any that were unexpended. Is that not correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That is correct.

SPEAKER SHARKEY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I heartily support this amendment. When this first -- when this bill first came before us it was a work in process. We were able to make a number of enhancements to it working together with the Chair, working together with industry experts. What we have now is something that will work to the satisfaction of all and I urge my colleagues to adopt this amendment and subsequently the bill. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Would you care to remark further on Senate Amendment A? Representative O'Dea of the 125th.

REP. O'DEA (125th):

Thank you, Mr. Speaker. Briefly to the proponent. I -- I am supporting this bill. I think it's a very good bill. And to the proponent, is there any expiration to the time for the money to get back to the card -- the person who bought it? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. If I understand the question correctly there is no time limit on when the amount of money can be returned to the card or the cardholder however it depends on the technology available and the arrangement with the particular financial institution that sponsors the card. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Dea.

REP. O'DEA (125th):

Thank you, Mr. Speaker. And just a final comment. I want to thank everyone involved with this bill. It's a good consumer bill, consumer friendly and I'm going to enthusiastically support it. Thank you very much, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark on -- on Senate Amendment A? Representative Wood of the 141st.

REP. WOOD (141st):

Thank you, Mr. Speaker. I also stand in support of this bill. I think it's very good for consumers. It's very good for small businesses. It's a very creative idea. And I think as we like to say in this

Chamber, it's a good bill and ought to pass. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on Senate Amendment A? Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, just a few questions to the proponent of the amendment.

SPEAKER SHARKEY:

Please proceed, Sir.

REP. SRINIVASAN (31st):

Through -- through you, Mr. Speaker. Each month that the prepaid card is still active and the funds have not been returned will there be an automatic fee or a reduction in the value of the prepaid card?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. No.

SPEAKER SHARKEY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker. In line 17 it talks about that not less than 90 days from the date of purchase of the card. Through you, Mr. Speaker. Is there a timeframe at what -- at which this card will expire? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I'm not sure I understand the question from the proponent. If he could rephrase. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Srinivasan, could you rephrase your question?

REP. SRINIVASAN (31st):

I definitely will. Through you, Mr. Speaker. I know this card cannot expire within 90 days of its purchase. But through you, Mr. Speaker, is it an expiring two years from now, one year from now? Is there such a date that this card will have when it will expire? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That will depend on the particular card at issue and the arrangement and the contract provided by the card issuer. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker. When this card expires and there is still funds that had not been utilized through the card is expired, through you, Mr. Speaker, will those funds -- unused funds will then be returned back? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Again that depends on the technology available and the particular rules and requirements with -- with respect to a specific card but yes if the technology available enables it and the card enables it then yes those funds will be returned to the original cardholder. Through you.

SPEAKER SHARKEY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, my final question. So each prepaid card that -- that one -- one could probably get would be different in terms of expiring date and in terms of whether the funds will be returned back. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Again I would -- I would characterize this piece of legislation as enabling in that it enables the marketplace to take advantage of technology to return funds to consumers. How that is ultimately done and on what terms largely depends on the card issuer and its relationship with the cardholder. Through you.

SPEAKER SHARKEY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark? Do you care to remark further on Senate Amendment A?

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. A couple of quick questions to the proponent if I may.

SPEAKER SHARKEY:

Please proceed, Sir.

REP. SHABAN (135th):

Thank you, Sir. I'm going through Senate A now trying to get up to speed. If the monies that are left on the card are not returned what recourse does the cardholder have? Through you.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That's not addressed in this bill if the question from the proponent is what legal resource -- recourse there is. I presume that the legal recourse may be had through our legal process and judicial system. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. And well my question -- the question kind of sprouted up in my mind because I think some of these -- some of these banks or I guess

the -- the card issuer sometimes are out of state entities I believe from my understanding. So if that's the case, through you, Mr. Speaker, was there a discussion about how an instate provision, Senate A, might actually affect an out of state contract or an out of state card issuer? Through you.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Is the question from the proponent how we will regulate or take action against an out of state business or a card issuer? Through you.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. Yeah, that -- I guess that's it because think some of these card issuers actually you know are out of Texas. I think a lot of them are. I could be wrong about that but I know -- I'm pretty confident they're not all here in Connecticut. So through this process what was the discussion or the intent of how we're going to actually enforce this for out of state entities?

Through you.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you. As with any business -- foreign business that conducts business domestically here in the State of Connecticut they'll be subject to our laws and should they not comply with our laws they're subject to suit in this State particularly by way of our long arm jurisdictional statutes. Through you.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. And I think yeah that -- I guess that makes some sense. I wasn't sure if since they -- some of these things might be out of state banks whether or not that could require a federal action but I guess somebody's good attorney should be able to figure that out. I thank the Gentleman for his responses. And I'll continue to listen to the discussion. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Representative O'Neill of the 69th. Representative O'Neill of the 69th.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. If I may a few questions. During the public testimony on the bill which this Senate A strikes and replaces, there was a question raised about the practicality of allowing a consumer to set an expiration date as to whether or not it was feasible, functionally I think was the testimony from the representative from American Express. And I was -- would ask in Senate A how is that problem addressed? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That particular issue is not addressed in this piece of legislation.

Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. How does the -- the Co-chair of the Banks Committee contemplate then that the cards expiration date will in fact be established?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

I have a further question, Mr. Speaker. I would ask the -- through you, Mr. Speaker, I would ask the Chair of the Banks Committee how in fact does he anticipate the holder of the card will be able to set the expiration date? What is the -- what are the mechanics of doing that? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That will depend on the terms and conditions of the prepaid card and it will depend on the -- the particular technology in use to return the funds back to the cardholder. And so it will on those terms and conditions provide for the setting of the expiration date. Beyond that this legislation does not comment on that issue. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. I did not notice during the course of the public testimony any indications

that other states had adopted similar legislation to that provided for the expiration date being set by the cardholder. And I was wondering if in fact there are other states which have adopted this type of legislation. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. My understanding is that this is cutting edge state of the art technology and that we as a State are taking action to enable this technology and these relationships between cardholders and card issuers to take place. And I think it's fast moving. I'm -- I don't have information in front of me as to the extent to which other states have adopted it but I don't think that there is extensive adoption in other states. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Because I did notice that in the testimony there was reference to the federal statute which as I understand it provides --

and perhaps I misunderstood so I would ask if I am correct in this. Is it the case that under federal law there is a five year expiration date set in federal -- federal statutes? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I don't have that federal statute in front of me. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Because you know as I'm reading about the -- these cards and they -- they do seem to be an interesting new vehicle, it does seem as if Connecticut is going to be entering an unknown territory with respect to this. And I guess one question I would ask is would it be feasible or possible and is it contemplated that a person setting up one of these cards could in fact set an expiration as long -- as far out as five years? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. So long as that expiration date as set conforms with State law and federal law and any applicable regulators I don't see why it could not. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. And if -- if a date such as that were set for one of these cards I'm wondering, we've previously had discussions about the application of the escheats law. Would this kind of a card be subject to our escheats law in the same way that bank accounts or travelers checks and that sort of thing are? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I don't believe that this would be captured by our escheats law. I don't think that this generally involves unclaimed property. It involves property that's very much identified with the particular owner and is in fact claimed and the

design of this technology is to return money to its rightful owner. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. But I guess I'm contemplating the possibility that if someone gets one of these cards they might do what I sometimes do and - - and that is they might mislay it. It might end up in a drawer someplace under something and be lying there for an extended period of time. And I'm just wondering if let's say there's an expiration date of a year and a year goes by on one of these cards, what happens to the funds under those circumstances?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. TONG (147th):

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong. Excuse me. I'm sorry.

REP. TONG (147th):

Through you, Mr. Speaker. I'm sorry I didn't quite understand the proponent's question. If he

law/gbr
HOUSE OF REPRESENTATIVES

475
June 5, 2013

could rephrase it for me I'll try to answer it.

Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. I'd be -- I'd be happy to rephrase my question. if -- if someone had -- if this becomes law if someone arranges to have an expiration date of say one year -- well first of all let me ask is -- is that something that would be permissible under this proposal? Through you, Mr. Speaker. A one year expiration date.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Again depending on the relationship between the cardholder and the card issuer and the available technology to return the card to the cardholder in the terms and conditions upon which that relationship is -- is established I suppose that's possible. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. So let's suppose that I were to go to some sort of a financial institution I guess and seek one of these prepaid cards and then I mislay it and a year and a day go by. What becomes of the outstanding balance or credit I guess it would be that is remaining on the card? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That is one circumstance which this legislation seeks to potentially address that if you have a prepaid card that there's money left on it, that you forget about it or somehow don't use that balance and the card expires that there is by way of technology a mechanism by which you can get your money back. And that's why this is such a strong measure for consumers. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. I guess what I'm -- then my next question is what is the method by which the

law/gbr
HOUSE OF REPRESENTATIVES

477
June 5, 2013

money is returned to me? Is -- how is it contemplated to do that? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. That is done electronically through whatever available hardware and software facilitates the technological transfer of that money. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Is this going to be something like that institution would electronically transmit the money to for example a -- a bank account of some sort when the card expires? Is -- is that what's contemplated? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Yes, precisely.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

And supposing I had closed my bank account during that year when the card was outstanding but before it had expired and that bank account that was linked to that card no longer exists what would the issuer of the card do with the outstanding balance? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I think that the cardholder would have to make provision for that eventuality, would have to consult his or her banking institution and try to make provision for the return of funds that would otherwise have been returned to the bank account. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

And then I would ask, what kinds of provisions are contemplated that the card issuer would need to make? I mean what would they -- how would they make those provisions? What are the provisions going to look like? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I think before signing up for a prepaid card that includes an automatic return of unexpended funds and before signing up with a technology that enables you to receive unexpended funds in your bank account that you would want to review the terms and conditions and make sure that you understand what the procedure is if you were to close your bank account and follow those provisions accordingly. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well if the -- the terms and conditions call for the issuer of the card to return the money to a specified bank account then -- and that bank account -- let's say I close that bank account, what do they do then? What's the -- what's the next step that one would anticipate or that they should be contemplating putting into their contract with me? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I -- that would depend on your banking institution and what the procedure is for when the banking institution takes incoming funds deposits into your account but the account has otherwise been closed. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well I'm not that intimately familiar with all the mechanics of how banking works but my previous experience had been that if an account is closed and someone tries to transmit money electronically into that account or -- or even deposit money into that account, the money does not go into the account. It stays where it was before. So under those circumstances the money would in effect remain with the card issuer. Am I correct? Is that how it would work? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I presume that your characterization of how it normally works is correct

but I think again it would depend on the terms and conditions of the card and the terms of conditions of the technology that returns the money to the original cardholder and the procedures that the applicable bank or financial institution. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well I guess I'm having a hard time envisioning or imagining what the alternative mechanism would be for the card issuer to transmit the money to me if the bank account is closed and -- and it can't put the money in, in effect if it bounces back at them because the bank account is closed. What alternative mechanism is -- is possible for them to employ to transmit the money to me if that bank account had in fact closed? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I suppose that it's possible that the original account holder could have a second account at a financial institution or otherwise

make provision for funds coming in to be transferred to another secondary account. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. But let's assume for the moment that having forgotten about this card being stuck in the bottom of a suitcase or a briefcase or something like that. I close out all of my accounts and I -- I've moved to another place in California or something and I closed out my accounts and I've got say \$1,000 sitting on this -- this card -- this prepaid card. How -- if there's no other account is there any other way that the card issuer is supposed to try to transmit that money to me? Is there -- is there anything else? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I suppose there's -- I can't think of a -- another specific mechanism that I can sketch out for you right now. And I suppose that with any prepaid card as with most financial matters there is a element of personal responsibility that if

you move away or if you let a card lapse or expire that it's partly your responsibility to find another mechanism for that money to be deposited elsewhere. What this legislation does potentially for people in Connecticut for the first time is -- is give them some backup so that if they do have an active bank account, they do have an active interest bearing account that that money can revert back to them and their custody instead of having it disappear on a plastic card on your dresser or in your car or wherever you may have laid it. Through you.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well that -- that's what sort of brings me back to the whole concept of the escheating because while sometimes escheating looks like it's the State reaching in and grabbing money from people in point of fact the -- the concept of escheating is to provide a safeguard or a protection for people so that if they forget about money that they have in a bank account or checking account, that sort of thing that the -- that the State will come in and -- and after a relatively short period of time, a

few years, take the money into custody and hold it waiting for the previous owner to come by and -- and collect which for sometimes actually does happen. And so if the card issuer has no other way of transmitting the money to me and this then -- that's why I was asking the question about escheating. Under those circumstances, let's say a couple of years go by, three years let's say after the card is expired would this card fall under our laws of escheats with respect to things like personal property or bank accounts or something of that sort? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. If I may to clarify the proponent's question the way I understand the question is do the laws regarding escheats apply? Is that the basic question? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker. I would say that that is a good summary way of putting it, do the Connecticut escheats laws apply to these prepaid

cards? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. I will profess a very limited knowledge of the State's escheats laws -- escheat law. But that being said I -- I can imagine a scenario in which there is money that ought to be returned to a cardholder that the cardholder has moved or otherwise moved on and that the account is no longer active and somehow there is money that is unclaimed. If that's the case then I presume that the State's escheats laws may apply and it may cause those funds to escheat to the State. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Well thank you, Mr. Speaker. I think that concludes my questions.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on Senate Amendment A? Representative Miller. Thank you. Would you care to remark further? Would you

care to remark further on Senate Amendment A? If not, let me try your minds. All those in favor of Senate Amendment A please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Those opposed, nay. The ayes have it. The amendment is adopted. Do you care to remark further on the bill as amended? Do you care to remark further on the bill as amended? If not, staff and guests to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.
The House of Representatives is voting by roll. Will members please return to the Chamber immediately?

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted? Will the members please check the board to make sure your vote is properly cast. If all the members have voted the machine will be locked and the Clerk will take a tally. Clerk, please announce the tally.

THE CLERK:

In concurrence with the Senate, Senate --
substitute Senate Bill 912 with Senate A.

Total Number Voting	146
Necessary for Adoption	74
Those voting aye	146
Those voting nay	0
Absent and not voting	4

SPEAKER SHARKEY:

The bill as amended passes in concurrence with
the Senate. Will the Clerk please call Calendar 681.

THE CLERK:

On page 33, Calendar number 681, favorable report
of the joint standing Committee on Finance, Revenue
and Bonding, substitute Senate Bill 911, AN ACT
CONCERNING MONEY TRANSMISSION, MORTGAGE SERVICES AND
CONSUMER COLLECTION AGENCIES.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Thank you, Mr. Speaker. I move acceptance of the
joint committee's favorable report and passage of the
bill in concurrence with the Senate.

SPEAKER SHARKEY:

The question is acceptance of the joint

S - 660

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 9
2501 - 2836**

vkd/gbr
SENATE

56
May 22, 2013

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Madam President, some additional items to mark at this time.

Madam President, on Calendar page 2, Calendar 215, Senate Bill 912 should be marked go.

And under matters returned, Calendar page 37, Calendar 132, Senate Bill 79 should be marked go.

Also, Madam President, Calendar -- under matters returned, Calendar page 45, Calendar 410, Senate Bill 847 should be marked go.

And to return to an earlier part of the Calendar, Madam President, Calendar page 22, Calendar 522, House Bill 5072 should be marked go. Thank you, Madam President.

THE CHAIR:

Thank you. Mr. Clerk.

THE CLERK:

On Calendar page 3, Calendar Number 215, substitute for Senate Bill Number 912, AN ACT CONCERNING PREPAID CARDS, Favorable Report of the Committee on Banks.

THE CHAIR:

Good afternoon, Senator Leone.

SENATOR LEONE:

Good afternoon, Madam President, pleasure to see you today.

THE CHAIR:

Same here, sir.

SENATOR LEONE:

I move acceptance of the Joint Committee's Favorable

vkd/gbr
SENATE

57
May 22, 2013

Report and passage of the bill.

THE CHAIR:

The motion is on passage and adoption. Will you remark, sir?

SENATOR LEONE:

Thank you, Madam President, the Clerk has LCO Amendment Number 7496. Will the Clerk please call the amendment and move adoption to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7496 Senate Amendment "A" offered by Senator Leone and Representative Tong.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam President. Madam President, this is an innovative new --

THE CHAIR:

Senator, do you want to adopt the amendment?

SENATOR LEONE:

Oh, I apologize. I would move adoption of the amendment.

THE CHAIR:

Motion is on adoption. Will you remark, sir?

SENATOR LEONE:

Thank you, Madam President. Again, Madam President, this is an innovative idea that was brought before the Banks

Committee regarding prepaid cards. And basically it's to allow for the creation of a system where an individual who adds funds to a prepaid card would be able to set a specific date of expiration at which point any of the remaining funds not utilized could be transferred back to the original funder rather than be left on the card and unspent in perpetuity.

And in laymen's terms, what that means is you could purchase this new card and if it's a \$10 card, you only use \$5, and you never get around to that other 5 unspent dollars, you can go back to the issuer of this particular card and get your money back at no cost.

Now, the good thing about this is our current systems with gift cards is classified as the general use prepaid card. This new system would be called a linked prepaid card which creates a whole new category specific to this. It does not touch existing statutes on how other cards are utilized, whether it's from the larger banks such as American Express, Chase, Visa, and so forth.

So it specifically allows for the creation of this new entity with local banks. This would, in essence, be sort of a pilot program to see if it's actually feasible, and to get a market out there. And this was brought forth by a constituent that has been working with local banks. Again, these are local banks to try and make this happen. So we needed to craft this language so that he could be allowed to proceed. That is, in essence, what this bill does. We believe it gives consumers a new choice, an added choice, and also the ability to collect unspent funds that they may never get around to. And with that, I would urge adoption. Thank you.

THE CHAIR:

Will you remark further? Senator Linares.

SENATOR LINARES:

Thank you, Madam President. I just have a few questions for the proponent of the bill, please. Thank you, Madam President.

THE CHAIR:

vkd/gbr
SENATE

59
May 22, 2013

Please proceed, sir.

SENATOR LINARES:

Just to clarify, Senator Leone, can you just give an example of the difference between a prepaid card and a prepaid linked card, and how the change in this legislation has improved this -- has improved for consumers across the State of Connecticut.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Yes, thank you. Through you, Madam President. The current standard gift cards, if you were to walk into a Wal-Mart and purchase one of those cards for, say, \$100 for -- for a niece or nephew for graduation, so to speak. That dollar figure now would be given to whoever you're going to give that card to and if they can use up to the full amount. If they never use the total funds and forget about that card, those unspent dollars languish there forever. And there are no expiration dates on those gift cards, because we passed that law a few years ago.

The difference is that this would be a new classification. Doesn't touch the existing statutes. So those cards are not harmed. There was initial concern that that would have caused some problems with the larger banks, obviously across the country. So we worked with them to make sure that this new language, which is separate, doesn't touch the existing statutes, allows for this new creation in the State of Connecticut to occur. And in that sense, this new card that would be issued by a local bank would allow the user to set an expiration date with -- at -- at the purchase, to use whatever funds they can. And if they don't -- and any dollars unspent that are never then used for whatever reason, they can then later go back, hand back that card, and get back their unspent dollars.

So if they buy a \$10 ticket or a \$10 linked pre-K card, spend \$8 at the local store. Three weeks later, they're never going to get around to collecting their \$2, they can bring back that card to the issuer, collect their \$2, and hand back the card. And that is, in essence, what the goal

vkd/gbr
SENATE

60
May 22, 2013

is. So it gives the consumer an additional choice on how to use those cards effectively. Through you, Madam Speaker.

THE CHAIR:

Senator Linares.

SENATOR LINARES:

Thank you very much, Senator Leone, for that excellent answer to my question. And Madam President, I just wanted to say that originally that I was concerned that the original underlying bill would affect -- would affect the larger banks in the prepaid card market. But now with this amendment having prepaid linked cards, it really does solve a problem for consumers who might have an extra few dollars left on these cards to -- to add that money to their bank account. I think it's an excellent idea, it's a great entrepreneurial venture. And I think this is -- this is something that we should all support and I'm -- I'm happy to support this amendment. And enjoyed working with the rest of the Bank Committee on this bill. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further? Senator Kane.

SENATOR KANE:

Thank you, Madam President. Through you, I have a number of questions for the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

Thank you, Madam President. You know, I have said many times that I work in the cellular phone industry and am used to prepaid phone cards where people don't have to sign a contract for their telephone service. They will pay for their service in advance. And many of those cards have expiration dates, whether it be 30 days, 120 days, or even 365 days, a full Calendar year. So my first question to

vkd/gbr
SENATE

61
May 22, 2013

you is we're not talking about prepaid telephone cards, are we? Through you, Madam President?

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam President, through you. My understanding is no, that would fall under the general use category under existing statutes, and therefore they would be untouched, and would remain as is, and it should not affect that particular situation. Through you.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. But you mentioned going to Wal-Mart, or Walgreens, I think you said, and purchasing one of these type of cards. So we're not talking about gift cards. We're not talking about like an iTunes gift card or a Macy's gift card or an Amazon gift card. Through you, Madam President.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam President, and I appreciate the Senator's clarifications to make sure that we don't do anything inadvertently. So my answer is no, it would not affect those cards either. Through you.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. And I guess then I'm still trying to wrap my arms around what type of cards these are,

vkd/gbr
SENATE

62
May 22, 2013

and what they are used for. Through you.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam President. This would be a new issued card from the particular bank that would agree to issue this type of card through this new creation, this new linked prepaid card. So let's say bank X wants to utilize this as an additional tool for market share purposes. They could then issue this linked prepaid card. The user could purchase it. Use it for wherever that bank has agreement to expend those funds, and use it accordingly. If and when they don't use the unspent funds, the purchaser could go back to the bank, and get their unspent dollars back. Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. The -- the question, I guess, the next question I would have is that these cards, and I guess I'm still trying to grasp what the usefulness and what the necessity is. Is this for someone who doesn't have a checking account, doesn't have a credit card, wants to use it to pay a utility bill? I guess I'm still not understanding the desire for this type of product. Through you.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam President. It could be for any and all of the above if the issuer of this new card so desires and has any agreements to utilize those funds. So in essence, it's -- it's the ability to allow a consumer to collect unspent funds. At the moment, through the existing gift cards, the only way you can collect your unspent dollars

vkd/gbr
SENATE

63
May 22, 2013

to actually go and spend it. So if you have a very small number, a small dollar amount or dollars and cents, and you can't find a product that would -- that that money would cover, you'd have to actually spend more money in order to use the remaining funds.

So the idea was that with this new card, if you don't have that desire or that opportunity to go fully expend the existing gift card, this prepaid card allows you to collect that money back and not have to then go buy an additional item at an additional out of pocket expense just to collect the money that you didn't originally spend. And that is the only intent. This is not in any manner or way to impinge or impede our current card servicers are being utilized. Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. So -- well, let me take a step back. If I walk into bank of X that, you know, you used earlier, do I have to have a relationship with that bank or is that something, because bank of X offers this service, I can walk in and purchase one of these prepaid cards. Through you.

THE CHAIR:

Senator Leone?

SENATOR LEONE:

Through you, my understanding is you could just walk in and purchase the card like you would any other.

THE CHAIR:

Senator Kane.

SENATOR KANE:

But -- but I do believe that the transaction happens electronically. Am I not correct in that? Through you.

vkd/gbr
SENATE

64
May 22, 2013

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Through you, Madam President, I'm not sure what you mean by electronically. My understanding is you could go in, physically purchase this card, take it with you, use it accordingly, and whenever you so desire to collect unspent funds you can go back, hand it to the -- to the bank of wherever you purchased it from, and say, I'd like to collect my own unspent funds. Through you.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And when I do return to the bank looking for my unused funds, I think there was something in here about interest, is that true? Through you, Madam President?

THE CHAIR:

Senator Leone.

SENATOR LEONE:

It says, through you, Madam Speaker, "the linked prepaid card, general use prepaid card, enables the purchaser of or individual to increase or reload funds onto the card or code device," subparagraph A, "to receive back the remaining unexpended balance and the accrued interest earned on the unexpended balance on such card coded device as of the date of expiration." Through you, Madam.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. So are we talking about like a temporary savings account? Through you, Madam President.

vkd/gbr
SENATE

65
May 22, 2013

THE CHAIR:

Senator Leone.

SENATOR LEONE:

The expiration date on such card or device is not less than 90 days from the date of purchase or increasing or reloading the funds. So there seems to be a small time frame in order to use this. Through you, Madam, Speaker.

THE CHAIR:

Senator Kane.

SENATOR KANE:

I guess -- thank you, Madam President. I guess I'm still trying to wrap my arms around this. Because the difference between me -- using your example of going to Walgreens, and I want to buy a gift. And I buy someone -- and if iTunes a bad example, I apologize, but maybe Amazon or Macy's, or -- you know, I could picture them in the -- on the display. I guess when I go into a store for a traditional prepaid card, let's say a \$50 prepaid card for a particular business, that this would be different going through the bank because I'm able to get my money back. Is that the major difference? Through you, Madam President.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Through you, that is correct.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Okay. And is there a fee at all? I mean, I don't understand the benefit to the banking institution to offer

vkd/gbr
SENATE

66
May 22, 2013

this prepaid card, because besides the short period of time that the bank is in possession of your money, the 50, the 100 bucks, but they still have to give you interest on that money, and they still have to give you -- refund you the difference. So is there any type of fee to the consumer from the banking institution? Through you, Madam President.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam Speaker -- Madam President, through you. No, there's no fee, and again this would just be an added marketing tool for a bank to -- to give this as an option. And also that is a way for them to then gather new clients for any other additional purposes, I would -- I would think. Through you.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. And I guess what you're telling me then is the banks do not currently offer this. We need this legislation in order for them to offer this product. Through you.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

I'm sorry, Madam Speaker, and I apologize to the Senator. I just was listening to this comment. Could you please repeat the question?

THE CHAIR:

Senator Kane.

SENATOR KANE:

vkd/gbr
SENATE

67
May 22, 2013

Of course. Of course. I guess my question was, that the banks don't currently offer this type of product, that we need this legislation in order for them to offer it. Through you.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam Speaker. That is exactly correct. Currently it does not allow -- we don't have the ability to allow them to create this. So we needed to create this new language, and again we created as a separate part of the language to ensure that we do not affect current existing practices and impede any current banking institutions on how the current marketplace currently activates.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. And just a clarification on the expiration date. I think you mentioned 90 days. But I thought -- okay. So I guess the comparison would be in a general use prepaid card they should not include an expiration date. These would have an expiration date. Am I correct in that?

THE CHAIR:

Excuse me, Senator Kane, Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Madam President would ask that this bill be passed temporarily. I believe that we will return to it shortly if we might stand at ease for just a moment.

THE CHAIR:

vkd/gbr
SENATE

68
May 22, 2013

Seeing no objections, so ordered. Senate will stand at ease.

(Chamber at ease.)

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Good afternoon, Madam President.

THE CHAIR:

Good afternoon.

SENATOR DOYLE:

It's my pleasure to take a point of personal privilege.

THE CHAIR:

Please proceed, sir.

SENATOR DOYLE:

Thank you, Madam President. We have in the Chamber -- I'm proud and privileged to say we have the -- a large portion of the Xavier High School Football Team. This team, Xavier is based in Middletown, as many people know, but it has students throughout Middlesex County and even some in Hartford County. And there are some staffers and former Legislators in the Chamber that might be a little envious of this team, because this team is a three time State Champion. 2010, 2011, 2012. I'll just give a few facts about this squad. 2010, the team was 13-0 undefeated in the Class L State Championship. They beat Trumbull 24-13. Senator Musto can take note of that.

THE CHAIR:

He's not in the Chamber.

SENATOR DOYLE:

2011 -- he's not in the Chamber, but hopefully he'll take

vkd/gbr
SENATE

73
May 22, 2013

Congratulations to all of you, and the best of luck. You don't play on my team, so it doesn't matter. But I just -- Senator Bartolomeo.

SENATOR BARTOLOMEO:

I'm sorry, ma'am, and I will be quick, ma'am, if I might. But I was asked to just mention out of the spirit and fun and competition, and with all due respect to my minority leader that in 2009 Xavier was the only team to have beat -- beaten, I should say, his alma mater, and it was asked that I just point that out with all due respect, sir.

THE CHAIR:

Especially since he's the majority leader, you're really in trouble right now.

SENATOR BARTOLOMEO:

Yeah, I said two with due respects.

THE CHAIR:

Thank you, gentleman, for coming and joining our Chamber and congratulations to all of you. And have a wonderful summer. The Chamber please give them a last round of applause.

You'll circle out. Thank you. Thanks, guys.

Senator Looney, do you want to start us back going again, sir?

SENATOR LOONEY:

Yes, Madam President, thank you, and if we might return to the item under discussion that was passed temporarily, and that was Calendar -- Calendar page 3, Calendar 215, Senate Bill 9, Madam President.

SB912

THE CHAIR:

Thank you. Senator Kane, we rudely interrupted you while you were asking a question. Would you like to proceed, sir?

vkd/gbr
SENATE

74
May 22, 2013

SENATOR KANE:

Not at all, Madam President. I'll defer to state champions any day of the week. Thank you. And I just have a couple more questions, and I think Senator Leone is doing a great job of answering those questions and setting my mind at ease in describing the necessity for the legislation. And I thank you for that.

I guess if we just can finalize the questions that I have and that I have been asking you in regards to this bill is how, you know, we have gotten here, and certainly we are here. But the -- I guess the -- the last question or last couple questions I would have, I just want to -- and I get the fact that you want to have this product as an offering for these banking institutions. And certainly as someone who owns a small business, you always look for opportunities to get people through your door. And try to offer new and different products.

And as you stated, the legislation is necessary in order to allow them to offer these products. So I just want to make sure that we see that -- I see the difference between typical or traditional prepaid cards and these -- and these linked prepaid cards. And if I just confirm in my mind, I guess, the difference being is that if there is an unpaid balance, you're able to get that back. And in addition have or earn interest on it possibly. And not have a relationship with the bank that you choose to make the purchase from. So if you could just confirm that in my mind and I would feel a lot better, because I think I would understand the -- the legislation a little bit better. Through you, Madam President.

THE CHAIR:

Senator Leone.

SENATOR LEONE:

Thank you, Madam President. Actually Senator Kane, you summed it up quite nicely. It's as if you wrote the bill. But that's exactly how it should flow, that you can purchase this new linked prepaid card through the banking institution as a new offering for that bank using it whenever you need to, and then go back to that institution to collect any unspent funds. It doesn't, again, it does

vkd/gbr
SENATE

75
May 22, 2013

not affect how all the other cards are being issued or utilized. And this legislation was necessary solely for the fact to allow this to occur. Without this legislation, we cannot do this. And this would be for local state banks to give them additional competition with nationally federally chartered banks. Through you, Madam Speaker.

THE CHAIR:

Senator Kane.

SENATOR LEONE:

Madam President.

THE CHAIR:

It's okay.

SENATOR KANE:

Thank you, Madam President, and I appreciate that description. And I think I have a much better understanding of the product and the legislation, of course. And it seems like a good enough proposal and something that -- typically, as I've said in this Circle many times, that when I like to have the free market find these opportunities. And -- but if it is -- there is legislation that it prevents it, and of course we want to fix that or change it. And if there's legislation that allows it, then all the more reason that we should have this type of legislation if we're able to let the free market reign and let banks and institutions provide new products and/or services to the general public and to the consumers. So in that case, I would expect that it's a very good proposal, and I will be voting in favor of it. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Will you remark? At this time I'll try your minds. All those in favor of Senate "A", please say aye.

SENATORS:

vkd/gbr
SENATE

76
May 22, 2013

Aye.

THE CHAIR:

Opposed? Senate "A" is adopted. Senator Leone? Oops,
Senator Widless -- I mean Witkos.

SENATOR WITKOS:

Thank you, Madam President. The Clerk has in his
possession LCO Number 7474. I ask that it be called and
that I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 7474, Senate "B", offered by Senator Witkos.

THE CHAIR:

Senator.

SENATOR WITKOS:

Thank you, I move adoption.

THE CHAIR:

Motion is on adoption. Will you remark?

SENATOR WITKOS:

Thank you, Madam President. You know, some of the best
ideas that are -- pass into legislation come from
constituents, and that's exactly what I'm attempting to
do here in the form of an amendment. The bill did receive
a public hearing in the General Law Committee. What the
amendment proposes to do is say that no person or entity
can put a hold or a credit block on somebody's account
larger than the actual purchase. Now you wouldn't think
that we would need legislation to prevent this from
happening, but I'm going to give you a little story as to
why this bill came into being.

vkd/gbr
SENATE

77
May 22, 2013

A woman goes to a gas station and knew that she had \$54 worth of money in her checking account. So she only purchased \$50 worth of gas knowing that it would leave her \$4 in her checking account. Well, soon therefore she got a bill from the bank saying overdraft protection of \$35. She says, why am I paying \$35? I only bought \$50 worth of gas. And unbeknownst to the consumer, the financial institution actually put a \$100 hold on the account. And so they, I'll call it batching, they batched their numbers at the end of the day, and then they realized it was only \$50. But they still charged her \$35 because once they put the \$100 hold, it triggered the overdraft protection. She was charged \$35 on top of her \$50 gas purchase. And this is -- this bill or this amendment really goes to protect the consumer. It's saying that you can only charge or hold the amount of your purchase. You can't put any more than that. So with that, Madam President, I'd like to offer the amendment and hopefully the Chamber will endorse it. Thank you.

THE CHAIR:

Will you remark, Senator Leone.

SENATOR LEONE:

Thank you, Madam President. And I apologize, my House days always come back to me.

THE CHAIR:

Mine too, sir.

SENATOR LEONE:

Madam President, and I want to thank Senator Witkos for bringing this to the Banking Committee's attention. He had brought this forth as an idea to try and fix the occurrence that happened to his constituent. And we have been trying to find the proper solution to correct what should not have happened. And we have been in talks with the banking industry and everyone agrees this should not have happened, and it should not happen, and normally it does not happen. So somehow it did, and we do need to rectify it. The -- the problem is we haven't yet figured out what the clear solution is on how to effectively do that without causing many other problems within how the

vkd/gbr
SENATE

78
May 22, 2013

credit blocks and cards are utilized.

So I would be happy to work on this with Senator Witkos going forward. We actually had a tentative agreement to do this as a study to make sure that we collect the proper data so that we can come in in the next session and provide the right solution so that everyone can be happy, including all those affected. And I would hold that out to still be true. So at this time, I appreciate the efforts. I would urge we do not adopt it at this time, but I am happy to work with Senator Witkos to find the correct solution for his constituent. Through you, Madam President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President. I want to thank the Chairman of the Banking Committee. And it appears as though everybody agrees that a situation like this shouldn't happen. And honestly, it's shameful that we would have to pass legislation to create a study to guarantee that the banking industry or the financial industry is going to come forward to figure out a solution, because it sounds to me it's an IT issue. With the good graces of the Chairman of the Banking Committee, pledge to work towards a solution with the banking industry so when we come back into session next February there will hopefully be a possible solution to this problem. I will respectfully withdraw the amendment.

THE CHAIR:

Thank you, Senator. Thank you. Seeing no objections, so ordered. Senator Leone.

SENATOR LEONE:

Thank you, Madam President, and I will work happily to make sure we get the correct solution for you, Senator. With that, I would urge if there's no objection to put this on the Consent Calendar.

THE CHAIR:

vkd/gbr
SENATE

79
May 22, 2013

Seeing no objection, so ordered, sir. Mr. Clerk.

THE CLERK:

On page 37, Calendar 132, substitute for Senate Bill Number 79, AN ACT CONCERNING A STUDY OF EMERGENCY POWER NEEDS AND HOUSING FOR THE ELDERLY. It's amended by Senate Amendment Schedule "A", Favorable Report of the Committee on Aging.

THE CHAIR:

Senator Ayala.

SENATOR AYALA:

Thank you, Madam President. I move acceptance of the Joint Committee's Favorable Report and urge passage of the bill.

THE CHAIR:

Motion is on acceptance and passage. Will you remark, sir?

SENATOR AYALA:

Yes, Madam President. The Clerk is in possession of Amendment LCO 7529. May the Clerk please call that amendment and I be given leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 7529 (inaudible.)

Senate Schedule B

THE CHAIR:

Senator Ayala.

SENATOR AYALA:

Madam President, I move the amendment.

THE CHAIR:

S - 661

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 10
2837 - 3149**

vkd/gbr
SENATE

219
May 22, 2013

Mr. Clerk.

THE CLERK:

On page 3, Calendar 202, Senate Bill 979. Calendar 215, Senate Bill 912. On page 15, Calendar 466, House Bill 5602. Page 35, Calendar 106, Senate Bill 916. Page 36, Calendar 120, Senate Bill 803 And Calendar 121, Senate Bill 918. On page 37, Calendar 132, Senate Bill Number 79, and Calendar 138, Senate Bill 886. On page 38, Calendar 196, Senate Bill Number 961. On page 39, Calendar 233, Senate Bill 995. On page 42, Calendar 301, Senate Bill 1015. Page 44, Calendar 385, Senate Bill 1070. Page 47, Calendar 504, House Bill 5345. And on page 48, Calendar 367, Senate Bill 804.

THE CHAIR:

I apologize. At this time, Mr. Clerk, seeing no objection, will you call for a roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber.

THE CHAIR:

Have all members voted? All members have voted? The machine will be closed. Mr. Clerk, will you call a tally please?

THE CLERK:

On today's Consent Calendar,

Total number voting	36
Those voting Yea	36
Those voting Nay	0
Absent and not voting	0

THE CHAIR:

The Consent Calendar passes. Senator Looney, you have

**JOINT
STANDING
COMMITTEE
HEARINGS**

**BANKS
PART 2
339 – 680**

2013

48
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

JONATHAN HOFFMAN: I have not yet.

REP. ALBERTS: You have not? Okay. I was hoping you had and you might be able to testify on that, because it sounds like what you're saying is -- and I don't want to put words in your mouth -- but you like some of the goal of 971, but this isn't properly executed here. And if I heard you right, you think that there's other vehicles, through the existing process, maybe to shore that up rather than this bill that's before us?

JONATHAN HOFFMAN: Correct.

REP. ALBERTS: Okay. I just wanted to clarify that.

Thank you.

Thank you, Mr. Chairman.

REP. TONG: Any questions?

Thank you.

JONATHAN HOFFMAN: Thank you.

REP. TONG: Jay Hardison. We're going to switch gears, right?

JAY HARDISON: Yeah, switch gears here.

Thank you, Chairmen, and committee members. I'm Jay Hardison, from Interest Capturing Systems, which is a Darien-based financial start-up. I'm here to speak about raised State Bill 912.

Basically, this deals with an amendment

to the Connecticut prepaid statutes of which, while the intent is good, there -- there are several problems to disadvantaged consumers and Connecticut-based businesses and banks.

I had a very long prepared testimony, but since I'm limited to three minutes, I'll get in basically all the -- all --

SENATOR LEONE: That's right. We'll ask you a question and you can expand.

JAY HARDISON: All right. But I'll -- I'll get into -- basically, the -- the issue is, as currently written, the Connecticut statutes, the -- the intent is good. I've spoke with A. G. Blumenthal previously about this before he went to Washington. But there is no expiration date, and there's several other constraining factors on the local businesses and banks that basically preclude them from issuing open-loop, prepaid gift cards.

So -- so to be succinct about it, to give an example, if one of you gave me \$100 gift card for Christmas, and right now you would have no idea what happened to that \$100, plus you're going to pay a 3.95, 4.95 up-front fee to purchase that card.

After that card is gone, if I throw that card in a drawer, and national statistics are that 25 percent of the balances on prepaid cards go unused, basically, the money never gets spent by the consumer in Connecticut. The funds are held basically in perpetuity or indefinitely by the bank -- the issuing bank. There's

no escheatment to the state in the current statute. So, basically, these banks or retailers hold these funds indefinitely.

And after a card goes 12 months, statistics say those funds are -- are rarely, if ever, redeemed. So, basically, what S.B. 912 does from our perspective is allows a consumer with a late financial account to buy a prepaid gift card, savings, checking, money market, credit card, at the point of sale, open looped, so they can use it anywhere, and then actually set the expiration date if you get those funds back.

In the -- in the bill, the proposed date is not -- a minimum of 90 days. The expiration date would be embossed on the card so the recipient knew how long he had to spend the funds. And then at the end of that 90 days, all of the unspent balance, if you gave me 100 and I only spent 50 or I didn't spend any of it, you would receive back in your linked financial account that \$100 plus a 3 -- you know, any interest that the bank might pay.

So we think it -- our proposed legislation cleans up the system. It's a hugely consumer-friendly bill and then it gets 100 percent of the funds back into the pocket of the actual loader or purchaser of the gift card.

The other problem it -- it addresses for the banks -- and there's an attached letter from Dan Berta, who's the president of Fairfield County Bank, on

the last page -- is that Connecticut charter banks currently don't issue a lot of prepaid cards. Vendors are in there all the time pitching them, but they don't make economic sense because they don't have the staff to clear the back office. They can't charge any fees related to their accounting. They've got to carry those funds as liabilities indefinitely.

So if -- even with the federal five-year expiration date, a Connecticut charter bank, if I walked in and found a card in the drawer 20 years later, has carried that as a liability and they have to redeem that card for me. So that's 20 years banks and retailers have had the full use of that free float, and our -- our objective is to get that money back into the original purchaser, into his pocket.

REP. TONG: Mr. Hardison, if we could stop you there.

JAY HARDISON: Sure.

REP. TONG: And I expect that Senator Leone has a question.

SENATOR LEONE: Yes. Thank you, Mr. Chairman.

Yeah. Let me just probe a little bit more because I just want to understand the mechanism that you're proposing would alleviate some of the problems that you're indicating exist with the funds that don't be used when someone gets a gift card.

JAY HARDISON: Right.

52
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

SENATOR LEONE: So, I just want to have you sort of walk me through the process because I just want to make sure I understand what it is that you're offering and how this account actually would get set up with a -- a local bank.

JAY HARDISON: Okay.

SENATOR LEONE: So someone gives me a gift card for whatever reason, Christmas, birthday, \$100, a American Express card --

JAY HARDISON: Right.

SENATOR LEONE: -- or even a specific card to a retail establishment --

JAY HARDISON: Right.

SENATOR LEONE: -- a hundred dollars. I only use \$73. Okay. So that's what, 27 --

JAY HARDISON: Remaining, right.

SENATOR LEONE: -- remaining, and I never get around to get to that \$27. So if I don't use it, I potentially could lose it. And -- and because it's a national retailer or American Express, there is these linked-in fees, inactivity fees --

JAY HARDISON: Correct.

SENATOR LEONE: -- that come into play.

JAY HARDISON: And that's a -- that's a -- that's -- well, that's the real problem here.

53
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

SENATOR LEONE: Okay.

JAY HARDISON: First of all, I've -- I've spoken with Commissioner Rubenstein; he just updated his website which I copied on the second page of the testimony. But, yeah, a federally-charted bank can come into Connecticut right now with a five-year expiration and can start charging those inactivity fees after 12 months of inactivity. Those fees --

SENATOR LEONE: And -- and when we passed the gift cards that would be -- that wouldn't have an expiration date, we could only do that for cards issued in the State of Connecticut. Obviously, we couldn't have purview over outside the borders.

So just to get back to the -- the mechanism, so now I'm -- I'm left with this \$27, and you're going to offer me a way to recoup that -- the full \$27 --

JAY HARDISON: You gave me the card in that -- in your example. So -- so there's \$27 I haven't spent.

SENATOR LEONE: Well, currently I would have the card and I have 27, and if ever get to it, great. If not, I forget about it --

JAY HARDISON: Right.

SENATOR LEONE: It's --

JAY HARDISON: So I gave you the card.

SENATOR LEONE: -- it's money gone. So now you have this process or mechanism. How do you save the day by me getting my \$27

back?

JAY HARDISON: Well, it -- it -- in your -- your example, I gave -- I gave you the \$100 card, so you have 27 remaining. You -- you're, I mean, statistics show that after 12 months, you're going to throw that card in a drawer.

So the first problem you -- you just brought up is, after 12 months of inactivity, VISA, AMEX, MasterCard, if it's open-looped gift card, it will start charging a monthly inactivity fee, usually two fifty to \$3. So in ten months, that 27 -- or 12 months that \$27 dollars is completely gone.

We would ameliorate that situation by, basically -- I would buy that card through a bank or with a bank account that was linked to that card, so -- at which point you, you know, throw that card in a drawer. I could set the expiration date, you'd see it on the card. But then those funds, at the that expiration, revert back to my linked financial account, plus any interest the bank might pay.

So what it does is it cleans up the situation by not leaving those funds with a bank indefinitely who just has free use of the float on those funds.

SENATOR LEONE: So do I give you the card if I haven't got to that 27? I have an actual gift card and I still have a remaining balance. I don't think I'm going to get to it or I just don't have time to get to it, do I then contact you and say here's my card, set up this account for me, or

55
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

is it at the purchase of the full \$100?

JAY HARDISON: Well, when I -- when I gave you that card, when I bought the card, I -- I did it through a linked financial account.

SENATOR LEONE: So this is at the initial purchase of the card, is what you're talking about?

JAY HARDISON: Right, so you spent 70 -- 73, have 27 remaining. I -- I -- when I bought you that card specified the expiration date, which in the -- in the proposed bill is a minimum of 90 days.

SENATOR LEONE: Got it.

JAY HARDISON: It's embossed on the card when you get it so you know when the card expires. At that end of that 90 days, those funds that are unused revert back to my linked account.

SENATOR LEONE: So if we -- if this bill passes -- effective upon passage or whatever, all the -- all new gift cards that we would see in establishments would have to be initiated through you?

JAY HARDISON: Oh, no. No.

SENATOR LEONE: Okay, that --

JAY HARDISON: In -- in fact, it would almost be two-tiered. Anybody that wanted to use this technology, which we think consumers would almost demand, that, you know, hey, I -- I buy -- national statistics say I buy 5.4 gift cards a year. So if I give 5.4 of you or six, a

56
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

card and 25 percent never got spent and they were \$100 cards, that's \$150 unspent that I would then get back, as opposed to the bank or the -- or the issuing retailer holding those funds indefinitely.

SENATOR LEONE: Okay. So the law passes, this is in effect, how does the card originate from you versus not originating from you somewhere else and the same problems exist?

JAY HARDISON: Well, because you could walk into a bank or retailer that actually uses our technology through -- through our issuing bank. And see the beauty of the -- of the proposed bill and the -- and the language we're setting the expiration date is that 12 months of inactivity, if -- if I'm a smart gift-card buyer and that's going to be my expiration date.

SENATOR LEONE: And that will be your advertising pitch as to why to come to you versus going somewhere else.

JAY HARDISON: Absolutely.

SENATOR LEONE: Yeah.

JAY HARDISON: I mean, you get all your unspent balance back, any interest that the bank might pay, and in a -- in a timely fashion. So -- so there are no funds unused floating around and the -- and the -- in Connecticut especially they never escheat to the state, so they're just in limbo for free use by the banks and retailers.

57
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

SENATOR LEONE: Thank you.

Thank you, Mr. Chairman.

REP. TONG: Sure.

Representative Alberts.

REP. ALBERTS: Thank you, Mr. Chairman, and thank you, Jay.

I've got some questions here. I issued some -- or got -- purchased some gift cards for my kids. And the part of me that would like to see some of that balance come back to me is very intrigued by this. But the gift cards I purchased had on them a face amount, \$50 or \$100.

JAY HARDISON: Right.

REP. ALBERTS: So, I guess, this would sort of do away with that, wouldn't it, or --

JAY HARDISON: No. In fact -- no. In fact, our conversations with our proposed partner bank on the last page --

REP. ALBERTS: Yeah.

JAY HARDISON: -- to make it a more simple process, we thought about pre-denominated cards, because the balance is recorded on the magnetic strip on the back.

REP. ALBERTS: Okay.

JAY HARDISON: So the face value, obviously, once you spend it is diminished.

REP. ALBERTS: Okay. How would the -- would there be any communication -- as I see it

58
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

looking at this, there's no requirement of communication between the purchaser and the user. The purchaser could be the user --

JAY HARDISON: Right.

REP. ALBERTS: -- but there -- did you see that there would be a requirement or did you contemplate that?

JAY HARDISON: None -- none, other than the fact that they're -- now, the expiration date, whatever I set the expiration date or you did for your kids --

REP. ALBERTS: Yeah.

JAY HARDISON: -- would be embossed on the card. And we, I mean, obviously -- we -- we are the issuing bank and retailer could send reminders because, at the end of the day, they'd rather have those funds be spent. Because statistics show that most people spend a lot more money than the actual face value of the card.

REP. ALBERTS: Right. That it goes a lot further.

JAY HARDISON: Right.

REP. ALBERTS: And linked in would be an option, but it wouldn't be the only option. People could choose not to use the linked-in option.

JAY HARDISON: Oh, absolutely.

REP. ALBERTS: Because they may not have a financial account to --

59
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

JAY HARDISON: Correct.

REP. ALBERTS: -- to link in. How does this
work --

JAY HARDISON: When you say linked in, not the
company LinkedIn --

REP. ALBERTS: Not the company LinkedIn.

JAY HARDISON: -- just the financial
(inaudible).

REP. ALBERTS: (Inaudible) exactly, exactly.
Some of these lines here go back to
increasing or reloading funds onto the
card. So, I guess, I'm a little
concerned about when you're reloading
funds under the card that that might get
confusing. Maybe you could walk through
that for me, how that would work, Jay?

JAY HARDISON: Well, you -- your card,
obviously, has a unique identifying alpha
numeric code or number --

REP. ALBERTS: Okay.

JAY HARDISON: -- on the front with the
expiration date, et cetera. You could
basically go to a website like you can
with any gift card now, type in that
code, and find out exactly what the
balance was and when the card -- and when
each balance loaded expired.

REP. ALBERTS: Okay. So if I had a -- I don't
know, Dunkin' Donuts card and I reloaded
it with, like, \$20, you know, once a week
or something like that, I'd have it
potentially staged with \$20 increments?

60
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

JAY HARDISON: Yeah. And -- and you would have a finite expiration date, so you could continue reloading 20, you know, as long as you wanted at the -- at the expiration date basically because you bought it with your own linked account, in that Dunkin' Donuts example.

REP. ALBERTS: Okay.

JAY HARDISON: Those funds would come back to your account anyway. There's no charge for that. We're not taking anything from that.

REP. ALBERTS: Okay. And how -- how do you earn money on -- on this? How -- how do you get your fee out of this, Jay?

JAY HARDISON: Two ways, essentially. The upfront purchase fee, so ours is just like any other open-looped card somebody would buy, AMEX, VISA; you're paying that 3.95, 4.95.

REP. ALBERTS: Okay.

JAY HARDISON: And then on the interchange which, you know, is basically split between us and the bank.

REP. ALBERTS: Okay.

JAY HARDISON: So from our perspective, we -- we make more money on the interchange if you go spend all the funds instead of the funds reverting back into the linked account.

REP. ALBERTS: I've got one last question on line 14, and I think, several places here it refers to the accrued interest earned

61
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

on the unspended balance.

JAY HARDISON: Right.

REP. ALBERTS: How do you determine what the accrued interest has earned?

JAY HARDISON: Well, because -- because of the way these -- these accounts are set up --

REP. ALBERTS: Uh-huh.

JAY HARDISON: -- you'd -- obviously, use a generic bank A, but they sell 2,000 gift cards. Those funds go into an omnibus gift card account that pays a set interest rate, if the bank wants to pay an interest rate. So then it's basically just prorated on the amount of time that you -- is based on the expiration date.

REP. ALBERTS: Okay. But it could be zero percent?

JAY HARDISON: Oh, absolutely.

REP. ALBERTS: Okay. Thank you.

REP. TONG: Sure.

Representative Widlitz.

REP. WIDLITZ: Thank you, Mr. Chairman.

REP. TONG: (Inaudible) finance.

REP. WIDLITZ: We don't talk about that. We have no money.

It -- it occurs to me that here we are at a branch of the University of Connecticut and I'm thinking about a parent sending

their child off to school with one of these cards. You could actually, by reloading it, control the amount of money they have access to and -- and increase those -- those timeframes in which they could spend those amounts?

JAY HARDISON: Absolutely.

REP. WIDLITZ: It's better than sending them a check that they lose and your checking account gets messed up for (inaudible).

JAY HARDISON: Well, well, to your point though, what happens now is that if -- if it's an open-looped debit card, like a VISA, MasterCard, they can spend anywhere. Those funds, if that student forgets about those funds, in -- in Connecticut with the current statutes, they never expire. So the card could have hundreds of dollars and be stuck in a drawer. And as long as that card is not taken in or redeemed or forgotten about, those funds sit with the bank that obviously has free use of that float, or the retail -- you know, in a different example, a retailer.

REP. WIDLITZ: Uh-huh. And as you keep reloading that card then, that same card, the -- the timeframe on which it could be used gets extended when you -- when you reload it?

JAY HARDISON: You can do that, basically, manually when you buy the card. But, yeah, there's a mechanism for, you know, you set three -- you've got four months for a semester. You reload it at the end of the semester. You can add four months for a new expiration date, in which case

63
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

a new card would be issued with that expiration date embossed.

REP. WIDLITZ: Oh, it would be a new card?

JAY HARDISON: Correct.

REP. WIDLITZ: Okay. Thank you.

JAY HARDISON: Yes, Ma'am.

REP. TONG: Representative Luxenberg.

REP. LUXENBERG: Thank you, Mr. Chairman.

How does it work if the person who purchases the card and gives it and has the card linked to their bank account, closes their bank account, or their bank account doesn't have any funds in it, and then the person receiving the gift card goes to use it and the account that it's linked to has been closed or changed or doesn't have any money in it?

JAY HARDISON: Well, that -- that never happens because the funds are held in the omnibus account at the issuing bank. So it's never held in -- you know, if you bought me that gift card, it's not held -- the funds aren't held in your account. They're now held in a separate omnibus account (inaudible).

REP. LUXENBERG: And that's -- and that's where you -- and that's where you make the fee -- your fee in the --

JAY HARDISON: No. That's -- that's run by the issuing bank.

REP. LUXENBERG: Okay.

64
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

JAY HARDISON: So, in this example, you buy the card for a \$100, give me that card. That \$100 now transfers from your account at the bank into their omnibus account.

REP. LUXENBERG: Okay.

JAY HARDISON: And -- and it stays there until the expiration date that you set. So if -- if I had that card and it said June 1st and I never spent those funds, then the funds would revert back to your account. Now, if you had closed that account, we have options that you can either give your tax I.D. number or social security number, specify a charity for any of those unspent balances and potential interest, so -- if you had moved, forgot about the account, closed the account, et cetera. But you can always check that online so you have a way to --

REP. LUXENBERG: And is there a -- just as a follow-up, is there like a -- is this a new technology? Is there a patent for this, or is this just using simple bank accounts --

JAY HARDISON: We -- we've --

REP. LUXENBERG: -- (inaudible) to the cards?

JAY HARDISON: -- we've gotten one patent on related technology. We have several pending, and one looks like it's just going to be allowed, which is kind of our master patent for all this financial technology.

REP. LUXENBERG: So you describe this as a new

65
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

technology?

JAY HARDISON: Oh, yeah, absolutely.

REP. LUXENBERG: And can you tell us a little bit how the technology works? I mean, I -- without maybe (inaudible) --

JAY HARDISON: It's -- it's --

REP. LUXENBERG: -- I'd like to understand it (inaudible).

JAY HARDISON: Not now that it's filed, it's not (inaudible). So there are two -- this is sort of an offshoot of the original technology. And -- and I'm not going to bore you with all the details, but I think I -- we've discussed on the phone, I spent 15 years on Wall Street structuring, trading, selling financials and foreign exchange of financial derivatives. Got out before Wall -- in '05 so it was well before the collapse, so I didn't have anything to do with that. But --

REP. TONG: We don't -- we don't blame you.

JAY HARDISON: Yeah. But -- so, basically, the -- the original technology was in the Wall Street Journal every Wednesday when I'd go in on the train, there's a Bankrate.com table that compares the national average savings rates to the top yields available, you know, internet banks and that kind of thing.

And I was doing lots of deals that were designed to arbitrage, you know, essentially, court-free money out of -- out of trades. And these spreads could

be -- at one time -- when fed funds were higher they were 600 or 700 basis points between the, you know, a local bank versus some internet bank. And so I thought there's just got to be a way to (inaudible) that spread down, and so I developed this technology. And the -- the base technology is -- is basically a monetary rights technology.

And what I did -- it was originally designed just for that one savings transfer application. Then I started thinking about where -- where are there other areas where consumers have funds that they actually earn their (inaudible) but they don't earn interest on those funds? So you have payroll withholding, mortgage escrow, prepaid is a huge area.

And -- and prepaid, which is the gift card stuff, includes stuff like E-ZPass, so you want a hundred bucks on that you're getting no interest on that, this technology would allow you to link that account as well, transfer that \$100 to a bank with a high yield, you drive through the E-ZPass, you know, monitor, and that -- those funds, with our technology, instantly come from that high-yield bank, by the E-ZPass account to make the transaction whole.

So you're basically -- the goal, initially, was to earn optimal interest on your funds in all these areas.

REP. LUXENBERG: Thank you.

REP. TONG: Any other questions?

Thank you.

67
dr/gbr BANKS COMMITTEE

March 5, 2013
6:00 P.M.

JAY HARDISON: Thank you very much.

REP. TONG: Gene Marconi. Good evening.

EUGENE MARCONI: Good evening, Senator Leone,
Representative Tong.

If -- with the -- with the Chair's permission, I'm wondering if we can kill two birds with one stone. I have one of my members here tonight who is signed up to speak who has a case study. I'm just going to make some brief remarks and then I'll let her give you the case study; again, with your permission.

REP. TONG: Okay.

EUGENE MARCONI: Julie Fedorovich. You've already heard some testimony on the market sale foreclosure proposal. I'm Eugene Marconi. I'm the general counsel for the Connecticut Association of Realtors and it is certainly my privilege to represent my 15,000 members who support this bill.

SB971

We've had foreclosure by sale in Connecticut for over a hundred years. Unfortunately, it's been done the same way for a hundred years, and that is the drum head auction on a Saturday morning under standing orders of the court, you know, cash sale, absolute auction, and the results we get accordingly.

This would simply add another option to the menu. We'd have strict, we'd have foreclosure by sale, the drum head auction, and we'd have foreclosure by market sale which would try and harness

Prepared Testimony for Raised S.B. No. 912 (2013)**Jay Hardison, Interest Capturing Systems, LLC****March 5, 2013****AN ACT CONCERNING PREPAID CARDS.**

To permit a purchaser of or individual who increases or reloads funds onto a general-use prepaid card, code or device to (1) receive back the unexpended balance and accrued interest on such balance by way of a financial account that is linked to such card, code or device, (2) receive back the unexpended balance and accrued interest in an expedited manner, and (3) transfer the unexpended balance to a bank offering a higher yield and insurance from the FDIC on such balance.

Introduction

While the use of prepaid cards (prepaid debit cards, gift cards, phone cards, etc.) has exploded in recent years, there are several shortcomings which make them a suboptimal consumer value proposition.

Problems

When a purchaser of a prepaid gift card purchases/loads funds on the card, he/she effectively surrenders control of those funds to first, the retailer or bank that issued the card and, second, to the recipient of the prepaid gift card. Per current Connecticut laws (Conn. Gen. Stat. §42-460, 2011 Public Act 201, Conn. Gen. Stat. §3-65c), and Conn. Gen. Stat. §3-73a), there is no expiration date for prepaid cards and, while the intent of the current statute is good, as it allows a cardholder to redeem the value loaded on the card at any point in the future, the reality is that as time progresses, it is less and less likely that the loaded, unspent funds will ever be utilized by the card recipient.

While statistics vary greatly on the amount of unspent balances that remain on a prepaid gift card after one year, the consensus appears to be that approximately 25% of a card's balance remains unspent after one year (a total of \$41 billion in unspent gift cards from 2005-2011) and that balance is unlikely to be spent after one year. (Source: Consumer Reports)

Problem #1: The unspent card balance is money that could be used in commerce in Connecticut and it is going unused – per the Connecticut Prepaid Statutes, in perpetuity.

Problem #2: This unspent money is being held by the issuing banks and retailers allowing them free use of consumers' funds indefinitely and, without paying any interest on the unspent balance. The issuing banks and retailers can invest this free, unused "float" indefinitely because

the Connecticut Prepaid Statute neither allows a finite expiration date nor allows unused funds to escheat to the state.

Problem #3: Connecticut state-chartered banks cannot compete in the prepaid space with federally-chartered banks, as federally-chartered banks *can* issue prepaid gift cards in Connecticut with a five-year (5-year) expiration date per the national CARD Act. This has been confirmed by Connecticut Department of Consumer Protection Commissioner Rubenstein and is addressed on the Connecticut Department of Consumer Protection Commissioner Web site (<http://www.ct.gov/dcp/site/default.asp>).

"There are two sets of law that may apply to gift certificates and gift cards. Gift certificates and gift cards that are sold in Connecticut and that are not issued by or backed by a Federal financial institution are covered under Connecticut state law. Gift certificates and gift cards that are sold in Connecticut and that are issued by or backed by a Federal financial institution are covered by Federal law.

Gift certificates issued by Connecticut retailers will most likely be covered under the Connecticut state law. Gift cards issued by Connecticut retailers generally fall under Connecticut state law. However, bank-issued or backed cards, including some cards issued by malls, fall under Federal law.

Note also that gift certificates and gift cards that are sold online or on the phone that are shipped into Connecticut are subject to Connecticut state law unless they are issued by or backed by a Federal financial institution.

Fees and expiration dates:

If Connecticut state law applies gift certificates and gift cards may not have an expiration date or inactivity fee.

If Federal law applies gift cards purchased on or after August 22, 2010 may not have an expiration date within the first five years from issue and may not have initial fees during the first twelve months. (Content Last Modified on 2/5/2013)

Problem #4: A critical problem with the current federal statute, as it applies to Connecticut consumers per the Connecticut Department of Consumer Protection, is that of "inactivity" fees, which allows a bank issuer of an open-loop (can be used anywhere (Visa, MasterCard, American Express, Discover)) to begin charging an "inactivity" fee after twelve (12) months of card inactivity. These *monthly* fees range from \$2.50-3.00 and are charged every month until an open-loop prepaid gift card's entire balance is depleted; for a \$25 gift card, the entire balance would be depleted in just 10 months through the "inactivity" fee.

Problem #5: Another problem that arises under the current Connecticut Prepaid Statute is that banks and retailers have to account for unspent prepaid gift card balances in perpetuity by carrying them as a liability on their balance sheets because there is no expiration date.

Problem #6: Not only do retailers have to account for these balances indefinitely as liabilities, but they want the funds to be spent, as the vast majority of prepaid gift card recipients spend more than the balance of the prepaid gift card when using it at a retailer or restaurant.

Solution

S.B. No. 912 (2013) offers a simple, consumer-friendly solution to all of the aforementioned problems associated with the current Connecticut Prepaid Statute. It allows a purchaser of a prepaid gift card to link his/her financial account (checking, savings, money market, credit card or debit card) to give a gift card, to set the card's expiration date (no less than 90 days) and, which, would be embossed on the prepaid gift card, and then to receive back all of the unspent card balance at expiry from a bank or retailer along with any interest an issuing bank might pay.

Problem #1: The unspent card balance is money that could be used in commerce in Connecticut and it is going unused – per the Connecticut Prepaid Statute, in perpetuity

Solution: The unspent card balance is returned to the original purchaser/loader of the prepaid gift card.

Problem #2: This unspent money is being held by the issuing banks and retailers allowing them free use of consumers' funds indefinitely and, without paying any interest on the unspent balance. The issuing banks and retailers can invest this free, unused "float" indefinitely because the Connecticut Prepaid Statute neither allows a finite expiration date nor allows unused funds to escheat to the state.

Solution: The banks and retailers no longer have free, indefinite use of consumers' "float"; it is returned at the card's expiration date (set by the purchaser/loader) to the linked financial account of the prepaid gift card purchaser/loader.

Problem #3: Connecticut state-chartered banks cannot compete in the prepaid space with federally-chartered banks, as federally-chartered banks *can* issue prepaid gift cards in Connecticut with a five-year (5-year) expiration date per the national CARD Act. This has been confirmed by Connecticut Department of Consumer Protection Commissioner Rubenstein and is addressed on the Connecticut Department of Consumer Protection Commissioner Web site (<http://www.ct.gov/dcp/site/default.asp>)

Solution: S.B. No. 912 (2013) will allow Connecticut state-chartered banks to compete on equal terms with the large federally-chartered banks by allowing a finite expiration date and return of the unspent card balances to their existing customers. S.B. No. 912 (2013) may also help the Ct state-chartered banks attract new customers, as the proposed legislation is extremely consumer-friendly.

Problem #4: A critical problem with the current statute, as addressed above, is that of “inactivity” fees, which allows a bank issuer of an open-loop (can be used anywhere (Visa, MasterCard, American Express, Discover)) to begin charging an “inactivity” fee after twelve (12) months of card inactivity. These *monthly* fees range from \$2.50-3.00 and are charged every month until an open-loop prepaid gift card’s entire balance is depleted; for a \$25 gift card, the entire balance would be depleted in just 10 months through the “inactivity” fee.

Solution: Consumers can avoid the insidious monthly “inactivity” fees, which can deplete a gift card’s entire unspent balance rapidly, by setting an expiration date for the gift card at one-year from the purchase date assuring that no “inactivity” fees are ever incurred, even for open-loop prepaid gift cards that are issued in Connecticut by a federally-chartered bank.

Problem #5: Another problem that arises under the current Connecticut Prepaid Statute is that banks and retailers have to account for the unspent prepaid gift card balances in perpetuity by carrying them as a liability on their balance sheets because there is no expiration date.

Solution: With a finite prepaid gift card expiration date, the accounting issue for issuing banks and retailers disappears.

Problem #6: Not only do retailers have to account for these balances indefinitely as liabilities, but they want the funds to be spent, as the vast majority of prepaid gift card recipients spend more than the balance of the prepaid gift card when using it at a retailer or restaurant.

Solution: With the expiration date embossed on the prepaid gift card, card recipients will be aware of the date by which they have to spend the loaded funds, which will lead to less unused balances and, by proxy, more money spent at the Connecticut retailers that issue these cards.

Opposition?

As S.B. No. 912 (2013) appears to be very consumer-friendly, who would oppose it?

In written testimony submitted in opposition of similar proposed legislation in 2012 (S B. 201), Visa opposed the proposed legislation. Visa’s testimony began:

“Visa opposes SB 201, which would repeal a 2012 supplement to the Connecticut General Statutes regarding “general-use prepaid cards”, and would replace it with a substitute. This substitute would provide that a general-use prepaid card may not include an expiration date for

the underlying funds that are redeemable through the use of the card. As a result of these provisions, SB 201 would likely preclude banks from issuing general-use prepaid cards in Connecticut "

As S.B. 912 (2013), like S.B. 201 (2012), explicitly states that a general-use prepaid card may include an expiration date, Visa's testimony in opposition was completely flawed.

But why would Visa oppose such a consumer-friendly bill? We believe that Visa is opposed for two reasons. First, by including a finite expiration date for a "general-use prepaid card", Visa's bank and retail customers will not be able to hold onto consumers' funds indefinitely and earn free interest on consumers' unspent prepaid card balances.

More importantly, we believe Visa is opposed because by allowing a finite expiration date, consumers would be able to avoid the insidious "inactivity" fees that allow a bank that issues "general-use prepaid cards", or Visa itself, to collect these fees monthly until an entire prepaid card's balance is exterminated. This is a most consumer-**unfriendly** practice that S.B. 912 (2013) would obviate. Even if Connecticut-chartered banks are prohibited from imposing these "inactivity" fees, the implications for Visa's business on the national level, through federally-chartered banks, with regard to "inactivity" fees is very clear.

Conclusion: For all of the reasons stated, we believe S.B. 912 (2013) is extremely consumer-friendly legislation that will allow Connecticut prepaid gift card purchasers to set a prepaid gift card's expiration date at purchase and then to receive back all of the unspent gift card balance at the card's expiration date, via a linked financial account, and potentially any interest a bank might also pay on that unused balance.

By setting an expiration date for a prepaid gift card, the purchaser of the card is able to preclude a bank that issues an open-loop gift card from charging "inactivity" fees, which can rapidly deplete the gift card's balance.

Finally, banks and retailers will not have to carry, indefinitely, unspent prepaid balances as a liability on their balance sheets, if consumers that purchase their gift cards specify an expiration date (default of 5 years per the federal CARD Act) with a linked financial account.

Note: We have met or spoken with the following regarding the proposed legislation:

Connecticut Banking Department: Howard Pitkin, Commissioner and Jim Heckman, Division Director

Connecticut Department of Consumer Protection, Bill Rubenstein, Commissioner

Connecticut Bankers Association, Tom Mongellow, Executive Vice President & Treasurer

Contact: Jay Hardison, CEO, Interest Capturing Systems, LLC

11 Nearwater Lane, Darien, CT 06820

Phone: (203) 655-3012 Email: hardison@intcapsystems.com



Fairfield County Bank

D. J. ...
...

March 1, 2013

Connecticut Banking Committee.

SB912

Banking is an ever evolving business and we are always looking for innovative products that meet the needs of our customers. At *Fairfield County Bank* we have been exploring the pre-paid card market for years to meet the growing demand.

To date, we have been unable to find a pre-paid card that would meet our customers' needs while satisfying State regulatory standards. Many of our National competitors are currently offering pre-paid products, putting my local company at a disadvantage. I understand the current pre-paid / gift card regulations are being reviewed and some creative alternatives suggested.

I first met with Jay Hardison in 2012 and learned about his pre-paid concept. We are very interested in considering a pre-paid card alternative that is both regulatory compliant and consumer friendly. I believe *Interest Capturing Systems'* solution is the perfect marriage of consumer friendly, regulatory compliant and product innovation -- a rarity in banking today.

I urge the Committee to consider regulatory change that would allow for new products that meet State standards will simultaneously putting the consumer first. A pre-paid card, with a reasonable expiration period, that returns unused balances to the purchaser, could be the answer.

Thank you for taking the time to hear my opinion on this topic. Please feel free to contact me with any questions.

Sincerely,

Dan Berta
President