

RICHARD BLUMENTHAL  
ATTORNEY GENERAL



55 Elm Street  
P.O. Box 120  
Hartford, CT 06141-0120

Office of The Attorney General  
**State of Connecticut**

*TESTIMONY OF  
ATTORNEY GENERAL RICHARD BLUMENTHAL  
BEFORE THE GENERAL LAW COMMITTEE  
FEBRUARY 24, 2009*

I appreciate the opportunity to support Senate Bill 892, An Act Concerning Gift Certificates.

This proposal: (1) clarifies that gift certificates or gift cards includes any certificates or cards are donated to a charity; (2) makes consistent the limitations on fees in the escheat statutes with the limitations in the consumer protection statutes; (3) requires retailers to maintain a separate escrow account or secured line of credit sufficient to redeem all outstanding balances of gift cards; (4) requires consumer notice on any gift card or certificate that is not subject to the state restrictions on fees and expiration date.

The escrow and secured line of credit requirements are consistent with the Consumers Union's Model State Gift Card Law.

Gift cards and gift certificates are often used in lieu of cash or provided to charities as auction items. Their use has exploded exponentially over the past decade and so has the amount of consumer losses when the gift card store closes or declares bankruptcy – more than \$100 million in the last year. Moreover, approximately 24% of gift cards remain unused after one year.

Whether it is Sharper Image, Linen 'N Things, Bennigans, Tweeter, Blue Tulip or KB Toys, consumers have seen the value of their gift cards reduced to zero.

Gift cards and certificates are a financial debt that the store owes to the card or certificate holder. Yet, in bankruptcy court, consumers stand behind all the secured creditors, often receiving absolutely nothing for their card.

It is inappropriate for secured lenders to take funds that are owed to consumers. Although state law cannot change bankruptcy laws, a separate escrow account for the cash that consumers spend on gift cards and certificates would prevent the retailer from using those funds for ordinary business expenses and creditors from using those funds to pay the debt owed to them by the retailer. Similarly, a secured line of credit payable to the Department of Consumer Protection would ensure that consumers could obtain the full value of their gift cards or certificates even when the retailer or restaurant is in bankruptcy.

Finally, many gift card issuers have begun using nationally chartered banks to operate their gift cards. As a result, the National Bank Act supersedes our state laws prohibiting expiration dates or dormancy fees. This legislation requires such cards to clearly notify consumers that because the issuer is a national bank, they can, and do, charge dormancy fees or set expiration dates. Consumers are aware of our consumer protections regarding gift cards. They are less aware of the federal law that takes away those protections when a national bank is involved in the gift card operation.

I urge the committee's favorable consideration of Senate Bill 892.