



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 925, An Act Establishing a Restaurant Gift Card and Certificate Guaranty Fund.

In this time of economic downturn or distress, my office is besieged with complaints about restaurants failing financially and then refusing to honor gift cards or gift certificates. Although a small fraction of the total, these failures threaten to undermine the entire industry's credibility and public trust. This proposal addresses that danger.

This proposal establishes a guaranty fund to provide a source of funds for holders of gift cards or gift certificates issued by restaurants that go out of business. This guaranty fund, modeled after several existing guaranty funds for home improvement contractors and health clubs, is a low-cost method of ensuring consumers full value for their gift cards when a restaurant closes or files for bankruptcy. The idea emerged from discussions with restaurant owners as a means of restoring consumer confidence in purchasing gift cards and certificates.

Under this legislation, on October 1, 2009 and annually thereafter, each restaurant would contribute \$100 annually to the fund, unless the guaranty fund's balance on the preceding July 1 exceeds \$500,000. In that case, the Consumer Protection Commissioner may set a lower annual fee sufficient to ensure adequate reserves to pay for anticipated claims in the following calendar year and maintain a \$500,000 balance.

In the alternative, the committee could consider establishing an escrow account or secured line of credit as outlined in Senate Bill 892.

Upon the closing of a restaurant, card or certificate holders would apply to the Department of Consumer Protection for reimbursement of the unexpired balances. The Department of Consumer Protection, through the Attorney General, would seek reimbursement of any funds paid from the guaranty fund from the restaurant owner. Any individual owning more than 25% of the restaurant owner equity would be personally liable for any restaurant gift card or certificate knowingly issued when such card or certificate is likely to be unredeemable within ninety days of issuance. Any owner whose restaurant ceases operations with outstanding gift card or certificates paid by the guaranty fund could not open another restaurant until any liability to the guaranty fund is repaid. The Commissioner may use the resources of the guaranty fund to pay for the costs of administering the fund, providing such amount shall not exceed \$50,000 annually.

I urge the committee's favorable consideration of Senate Bill 925.