

LEGISLATIVE BILL 173

Approved by the Governor March 6, 2006

Introduced by Hudkins, 21; Bourne, 8; Engel, 17; Jensen, 20; McDonald, 41; Stuthman, 22; Cunningham, 40; Price, 26

AN ACT relating to the Uniform Disposition of Unclaimed Property Act; to amend sections 69-1301, 69-1305.02, 69-1308, and 69-1329, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to credit memos, gift certificates, gift cards, and general-use prepaid cards; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 69-1301, Reissue Revised Statutes of Nebraska, is amended to read:

69-1301 As used in the Uniform Disposition of Unclaimed Property Act unless the context otherwise requires:

(a) Banking organization means any bank, trust company, savings bank, industrial bank, land bank, or safe deposit company.

(b) Business association means any corporation, ~~(other than a public corporation)~~, joint-stock company, business trust, partnership, limited liability company, or association for business purposes of two or more individuals, but does not include a public corporation.

(c) Financial organization means any savings and loan association, building and loan association, credit union, cooperative bank, or investment company, engaged in doing business in this state.

(d) General-use prepaid card means a plastic card or other electronic payment device usable with multiple, unaffiliated sellers of goods or services.

~~(d)~~ (e) Holder means any person in possession of property subject to the act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the act.

~~(e)~~ (f) Life insurance corporation means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation limited to, endowments and annuities.

~~(f)~~ (g) Owner means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to the act, or his or her legal representative.

~~(g)~~ (h) Person means any individual, business association, governmental or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

~~(h)~~ (i) Utility means any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Sec. 2. Section 69-1305.02, Reissue Revised Statutes of Nebraska, is amended to read:

69-1305.02 ~~(a)~~ A gift certificate ~~or~~ a credit memo that remains unredeemed for more than three years after issuance is presumed abandoned. ~~(b)~~ In the case of a gift certificate, the amount presumed abandoned is the face amount of the certificate itself. In the case of a credit memo, the amount presumed abandoned is the amount credited, as shown on the memo itself.

Sec. 3. (a) A gift certificate or gift card which has a face value of less than one hundred dollars and is not assessed any fees and does not have an expiration date shall not be presumed to be abandoned.

(b) A gift certificate or gift card which has a face value of one hundred dollars or more which is unredeemed for a period of three years from the date of issuance shall be presumed abandoned.

(c) A gift certificate or gift card which contains an expiration date or requires any type of post-sale finance charge or fee which is unredeemed for a period of three years from the date of issuance shall be presumed abandoned.

(d) A gift certificate or gift card issued prior to November 2, 2006, with a face value of less than one hundred dollars and which contains an expiration date or requires any type of post-sale finance charge or fee and has not been redeemed shall not be presumed abandoned if the issuer's policy

and practice as of July 1, 2006, is to waive all post-sale charges or fees and to honor such gift certificate or gift card, at no additional cost to the holder whenever presented at full face value or the value remaining after any applicable purchases, expiration date notwithstanding. A written notice of such policy and practice shall be posted conspicuously by July 1, 2006, in not smaller than ten-point type, at each site in all Nebraska locations at which the issuer distributes or redeems a gift certificate or gift card.

(e) In the case of a gift certificate or gift card, the amount presumed abandoned is the face amount of the certificate or card itself, less the total amount of any applicable purchases and fees.

(f) A gift certificate or gift card subject to a fee shall contain a statement clearly and conspicuously printed on it stating whether there is a fee, the amount of the fee, how often the fee will occur, that the fee is triggered by inactivity of the gift certificate or gift card, and when the fee will be assessed. The statement may appear on the front or back of the gift certificate or gift card in a location where it is visible to a purchaser prior to the purchase.

(g) A gift certificate or gift card subject to an expiration date shall contain a statement clearly and conspicuously printed on the gift certificate or gift card stating the expiration date. The statement may appear on the front or back of the gift certificate or gift card in a location where it is visible to a purchaser prior to the purchase.

(h) This section does not apply to a general-use prepaid card.

Sec. 4. Section 69-1308, Reissue Revised Statutes of Nebraska, is amended to read:

69-1308 All (a) Except as provided in subsection (b) of this section, all intangible personal property, not otherwise covered by the Uniform Disposition of Unclaimed Property Act, including any income or increment thereon and after deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable, is presumed abandoned.

(b) The unredeemed value of a general-use prepaid card, including any income or increment thereon after deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after the last transaction initiated by the card owner, is presumed abandoned.

Sec. 5. Section 69-1329, Reissue Revised Statutes of Nebraska, is amended to read:

69-1329 Sections 69-1301 to 69-1329 and section 3 of this act shall be known and may be cited as the Uniform Disposition of Unclaimed Property Act.

Sec. 6. This act becomes operative on November 2, 2006.

Sec. 7. Original sections 69-1301, 69-1305.02, 69-1308, and 69-1329, Reissue Revised Statutes of Nebraska, are repealed.