

March 18, 2018

Chairman Robert Jacquard
House Corporations Committee
State House
Providence, RI 02903

RE: Opposed – H 5810 (Gift Certificates)

Dear Chairman Jacquard:

On behalf of the Electronic Transactions Association (“ETA”), we are opposed to H 5810. ETA appreciates the opportunity to provide comments on behalf of the payments industry and hopes the committee considers opposing the bill. Specifically, the escrow requirements in the bill are onerous, overly burdensome, and potentially harmful to small businesses in Rhode Island.

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services, including financial institutions, transaction processors, payments networks, and others. ETA also has members that are engaged in online lending for commercial enterprises, primarily small businesses, either directly or in partnership with other lenders.

Overview of the Bill

This bill would add certain actions relating to gift certificates to the list of Rhode Island’s unfair sales practices laws. Specifically, the bill would add the following language.

...(b) A gift certificate as defined in subsection (a) of this section, constitutes value held in trust by the issuer of the gift certificate on behalf of the beneficiary of the gift certificate. The value represented by a gift certificate belongs to the beneficiary, or to the legal representative of the beneficiary to the extent provided by law, and not to the issuer. As such, issuers are required to deposit and hold funds in an escrow account until the gift certificate is redeemed or for a period of three (3) years, whichever occurs first.

(c) The terms of a gift certificate may not make its redemption or other use invalid in the event of a bankruptcy.

Escrow Requirements

This bill requires that issuers of gift certificates hold funds in escrow for up to 3 years after a gift certificate is issued. These requirements are onerous and overly burdensome and will prevent companies from using those funds for years. Issuers of gift cards will be forced to maintain outstanding gift card funds in escrow that cannot be used for economic growth purposes, to the detriment of the local Rhode Island economy as such funds are essentially frozen from the

economy for up to 3 years. Ultimately, the restrictions on cash flow and investment benefits could outweigh the overall benefits of offering gift certificates at all. Certain issuers of gift cards may forego offering gift cards at all due to the increased costs in maintaining the gift cards in the first place, specifically escrow-related costs and lack of access to the cash generated from the gift card issuance – a major detriment to businesses that rely on this cash influx during peak seasons to facilitate the operation of their businesses during non-peak periods. Additionally, these restrictions are not present in any other state requirements across the country, making Rhode Island an outlier in this space.

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Thank you for the opportunity to participate in the discussion on this important issue. If you have any additional questions, you can contact me or ETA Senior Vice President, Scott Talbott at stalbott@electran.org.

Sincerely,



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Cc: House Corporations Committee Members