

HOUSE BILL 613

F5, I4

8lr0655

By: **Delegates Pena–Melnyk, Ali, Anderson, Aumann, Barkley, Barnes, Beidle, Benson, Bobo, Braveboy, Burns, Cane, Carr, G. Clagett, V. Clagett, Conaway, Costa, DeBoy, Dumais, Frick, Frush, Gaines, Glenn, Griffith, Gutierrez, Guzzone, Hammen, Haynes, Healey, Hecht, Heller, Hixson, Holmes, Howard, Hubbard, Hucker, Impallaria, Ivey, James, Jones, Kach, Kaiser, Kirk, Kullen, Lafferty, Lee, Love, Manno, McDonough, McIntosh, Mizeur, Montgomery, Morhaim, Nathan–Pulliam, Niemann, Oaks, Pendergrass, Proctor, Ramirez, Reznik, Rice, Riley, Robinson, Rosenberg, Ross, Shewell, Simmons, Stukes, Tarrant, Taylor, F. Turner, V. Turner, Valderrama, Vallario, Vaughn, Waldstreicher, Walker, and Weldon**

Introduced and read first time: January 31, 2008

Assigned to: Economic Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Maryland Education Fund – Establishment and Funding**

3 FOR the purpose of establishing the Maryland Education Fund as a special,
4 nonlapsing fund; establishing the purpose and contents of the Fund; requiring
5 the State Superintendent of Schools to administer the Fund and to adopt
6 certain regulations; requiring the State Treasurer to hold the Fund separately
7 and to invest the money of the Fund in a certain manner; requiring the
8 Comptroller to account for the Fund; providing that expenditures from the Fund
9 may be made only in a certain manner; providing that on a certain date the
10 balance remaining on a gift certificate shall be presumed to be abandoned;
11 requiring a person that issues gift certificates sold in the State to remit to the
12 Comptroller a certain percentage of the remaining balances on certain gift
13 certificates on or before a certain date each year; requiring the Comptroller to
14 distribute certain revenues to the Maryland Education Fund on or before a
15 certain date each year; altering the information that must be printed on a gift
16 certificate, a sticker permanently affixed to a gift certificate, or an envelope
17 containing a gift certificate; requiring a person that sells or issues a gift
18 certificate in the State that is subject to expiration to maintain accounts, books,
19 and records relating to the sale and issuance of the gift certificate for a certain
20 period of time; requiring the person to make the accounts, books, and records
21 available for inspection by the Comptroller on request; defining a certain term;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 altering a certain definition; and generally relating to the Maryland Education
2 Fund and abandoned gift certificates.

3 BY repealing and reenacting, with amendments,
4 Article – Commercial Law
5 Section 14–1319
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2007 Supplement)

8 BY adding to
9 Article – Education
10 Section 5–201.1
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2007 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Commercial Law**

16 14–1319.

17 (a) (1) In this section, “gift certificate” means a device constructed of
18 paper, plastic, or any other material that is:

19 (i) Sold or issued by a person for a cash value that can be used
20 to purchase goods or services; or

21 (ii) Issued as a store credit for returned goods.

22 (2) “Gift certificate” does not include:

23 (i) A prepaid telephone calling card;

24 (ii) A prepaid technical support card;

25 (iii) A prepaid card for Internet services;

26 (iv) A coupon for discounted goods or services;

27 (v) A gift certificate that is distributed to an individual under
28 an awards, loyalty, or promotional program in which the recipient does not give money
29 or value for the gift certificate; [or]

30 (vi) A gift card that:

31 1. Is processed through a national credit or debit card
32 service; and

1 2. May be used to purchase goods or services from
2 multiple unaffiliated sellers of goods or services;

3 **(VII) A GIFT CERTIFICATE THAT IS SOLD BY A CHARITABLE**
4 **OR NONPROFIT ORGANIZATION;**

5 **(VIII) A CARD ISSUED BY AN EMPLOYER TO AN EMPLOYEE AS**
6 **PROOF OF WAGES PAID TO THE EMPLOYEE; OR**

7 **(IX) A CARD ISSUED BY A PUBLIC TRANSIT FACILITY FOR**
8 **THE PAYMENT OF ANY TRANSIT FARES, PARKING FEES, OR TRANSIT-RELATED**
9 **EXPENSES.**

10 (b) A person may not sell or issue a gift certificate that, within 4 years after
11 the date of purchase, is subject to expiration or a fee or charge of any kind.

12 **(C) (1) THE BALANCE REMAINING ON A GIFT CERTIFICATE THAT IS**
13 **SUBJECT TO EXPIRATION SHALL BE PRESUMED TO BE ABANDONED ON THE**
14 **LATER OF:**

15 **(I) THE DATE THAT IS 4 YEARS AFTER THE DATE THE GIFT**
16 **CERTIFICATE IS PURCHASED; OR**

17 **(II) THE DATE THAT IS 1 YEAR AFTER THE DATE OF THE**
18 **LAST ACTIVITY ON THE GIFT CERTIFICATE, INCLUDING A PURCHASE, ADDITION**
19 **OF VALUE, OR BALANCE INQUIRY.**

20 **(2) ON OR BEFORE MARCH 1 OF EACH YEAR, A PERSON THAT**
21 **ISSUES GIFT CERTIFICATES SOLD IN THE STATE SHALL REMIT TO THE**
22 **COMPTROLLER 70% OF THE BALANCE REMAINING ON EACH GIFT CERTIFICATE**
23 **THAT WAS PRESUMED ABANDONED DURING THE PREVIOUS YEAR.**

24 **(3) ON OR BEFORE APRIL 1 OF EACH YEAR, THE COMPTROLLER**
25 **SHALL DISTRIBUTE THE REVENUES RECEIVED UNDER PARAGRAPH (2) OF THIS**
26 **SUBSECTION TO THE MARYLAND EDUCATION FUND ESTABLISHED UNDER §**
27 **5-201.1 OF THE EDUCATION ARTICLE.**

28 **[(c)] (D)** Any term or condition concerning expiration or a fee or charge that
29 takes effect more than 4 years after the date of purchase, **AND NOTICE OF THE**
30 **PRESUMPTION OF ABANDONMENT UNDER SUBSECTION (C)(1) OF THIS SECTION,**
31 must be printed clearly in at least 10 point type in a visible place on:

32 (1) The front or back of the gift certificate;

1 (2) A sticker permanently affixed to the gift certificate; or

2 (3) An envelope containing the gift certificate.

3 [(d)] (E) Unless the change benefits the consumer, a term or condition
4 disclosed under subsection [(c)] (D) of this section may not be changed after the date of
5 purchase or issuance.

6 [(e)] (F) (1) A gift certificate that is sold or issued in violation of this section
7 shall be considered valid and may not be subject to expiration or any fee or charge.

8 (2) **NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,**
9 **THE BALANCE REMAINING ON A GIFT CERTIFICATE THAT IS SUBJECT TO**
10 **EXPIRATION SHALL BE PRESUMED ABANDONED IN ACCORDANCE WITH**
11 **SUBSECTION (C)(1) OF THIS SECTION.**

12 (G) (1) **A PERSON THAT SELLS OR ISSUES A GIFT CERTIFICATE IN THE**
13 **STATE THAT IS SUBJECT TO EXPIRATION SHALL MAINTAIN ACCOUNTS, BOOKS,**
14 **AND RECORDS RELATING TO THE SALE OR ISSUANCE OF THE GIFT CERTIFICATE**
15 **FOR AT LEAST 2 YEARS AFTER THE DATE THE BALANCE ON THE GIFT**
16 **CERTIFICATE IS PRESUMED TO BE ABANDONED UNDER SUBSECTION (C)(1) OF**
17 **THIS SECTION.**

18 (2) **ON REQUEST, THE PERSON SHALL MAKE AVAILABLE ALL OF**
19 **THE ACCOUNTS, BOOKS, AND RECORDS RELATING TO THE SALE OR ISSUANCE OF**
20 **THE GIFT CERTIFICATES FOR INSPECTION BY THE COMPTROLLER.**

21 [(f)] (H) A violation of any provision of this section:

22 (1) Is an unfair or deceptive trade practice within the meaning of Title
23 13 of this article; and

24 (2) Is subject to the enforcement and penalty provisions contained in
25 Title 13 of this article, except § 13-411 of this article.

26 **Article – Education**

27 **5-201.1.**

28 (A) **IN THIS SECTION, “FUND” MEANS THE MARYLAND EDUCATION**
29 **FUND.**

30 (B) **THERE IS A MARYLAND EDUCATION FUND.**

1 (C) **THE PURPOSE OF THE FUND IS TO HELP FINANCE PUBLIC SCHOOL**
2 **EDUCATION.**

3 (D) **THE STATE SUPERINTENDENT SHALL ADMINISTER THE FUND.**

4 (E) (1) **THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
5 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

6 (2) **THE STATE TREASURER SHALL HOLD THE FUND**
7 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

8 (F) **THE FUND CONSISTS OF:**

9 (1) **REVENUE DISTRIBUTED TO THE FUND FROM ABANDONED**
10 **GIFT CERTIFICATES UNDER § 14-1319 OF THE COMMERCIAL LAW ARTICLE;**

11 (2) **INVESTMENT EARNINGS; AND**

12 (3) **ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
13 **FOR THE BENEFIT OF THE FUND.**

14 (G) **THE FUND MAY BE USED ONLY TO SUPPORT PUBLIC SCHOOL**
15 **EDUCATION.**

16 (H) **THE STATE SUPERINTENDENT SHALL ADOPT REGULATIONS TO**
17 **CARRY OUT THE PURPOSE OF THE FUND.**

18 (I) (1) **THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
19 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

20 (2) **ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**
21 **CREDITED TO THE FUND.**

22 (J) **EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**
23 **ACCORDANCE WITH THE STATE BUDGET.**

24 (K) **MONEY EXPENDED FROM THE FUND FOR PUBLIC SCHOOL**
25 **EDUCATION IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE**
26 **OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR PUBLIC SCHOOL**
27 **EDUCATION.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2008.