

The Board of Governors of the Federal Reserve System shall determine whether state law is pre-empted by federal law regarding dormancy, inactivity, or service fees, or expiration dates in the case of gift certificates, store gift cards, or general-use prepaid cards. 12 CFR 205.12. A state law that is inconsistent may be preempted even if the Board has not issued a determination. *Supplement I to part 205 – Official Staff Interpretations.*

**TABLE A
FEDERAL AND STATE GIFT CERTIFICATE AND GIFT CARD LAW,
COMPARED**

	12 CFR 205.20 (changes effective August 22, 2010)	California Civil Code 1749.45-1749.6
Definition of 'gift certificate'	Generally, that it is "issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount." Federal law creates different categories of 'gift certificate,' 'store gift card,' 'general use prepaid card.' See TABLE B below. These definitions do not include any card, code, or other device that is any of the following: (1) a calling card (2) reloadable and not marketed or labeled as a gift card/certificate (3) loyalty, award, or promotional gift card (4) not marketed to the general public (5) issued in paper form only or (6) redeemable solely for admission to events/venues at a particular location or to obtain goods/services in conjunction therewith.	Includes gift cards. If gift certificates/cards useable with unaffiliated sellers include an expiration date printed on the certificate, they do not fall within the definition of gift certificate and are not subject to the requirements of CA gift certificate law.
Disclosures	Must be clear and conspicuous, made to the consumer in written or	Must be made in at least 10-point font on the face of the card. Any words

	<p>electronic retainable form. <u>These disclosures must be made prior to purchase</u> (may also be given orally): Those regarding applicable fees, whether they are dormancy, inactivity, service fees or otherwise, and those regarding expiration dates.</p> <p><u>These disclosures must be made on the certificate or card:</u> Those regarding loyalty, award, or promotional gift cards, those regarding dormancy, inactivity, service fees, expiration dates, and telephone and website, if any, regarding fee information.</p>	<p>regarding an expiration date must be in all-caps.</p>
Applies to calling cards?	No	No
Expiration date?	<p>No, unless: Expiration of the underlying funds (as opposed to the expiration of the card itself) is the later of (1) 5 years after the certificate was initially issued or the date on which funds were last loaded to a store gift card or general use prepaid card or (2) the expiration date for the certificate or card, if any. AND Certain disclosures are made regarding the expiration dates of the card and/or underlying funds. See 12 CFR</p>	<p>No, with the following exceptions: gift certificates may include expiration dates in at least 10-point font on the front of the certificate if: (1) distributed pursuant to an awards, loyalty, or promotional program without any money or thing of other value being given in exchange by the consumer (2) donated or sold below face value at a volume discount to employers or non-profit and charitable organizations for fundraising. Here, expiration date must not</p>

	205.20(e)(3). AND No charge is imposed for replacement of the certificate or card.	be more than 30 days after date of sale (3) issued for perishable food products.
Service/dormancy fee?	No, unless: There is no activity for at least 1 year; the dormancy/inactivity/service fee and its frequency are stated on the certificate or card, and not more than one dormancy/inactivity/ or service fee is imposed in a calendar month.	No (except if the card meets the criteria in CC 1749.5(e))
Redeemable in cash?	-- (No minimum dollar amount for seller to redeem for cash)	Yes, if less than \$10. Any greater amount is up to the discretion of the seller whether to redeem in cash or replace with a new gift certificate at no cost.
Can these rights be waived by the consumer?	-- (Waiver not addressed)	No

**TABLE B
FEDERAL DEFINITIONS OF VARIOUS GIFT CERTIFICATES AND CARDS,
COMPARED**

	Gift certificate	Store gift card	General-use prepaid card	Loyalty, award, or promotional gift card
May be increased or reloaded in exchange for payment?	No	Yes	Yes	--
Redeemable at unaffiliated merchants and/or ATM machines?	No	No	Yes	Yes

<p>Additional disclosures needed?</p>	<p>Type, amount, and condition of fees, if any (other than the service/dormancy requirements listed above); telephone number for fee information (incl. service/dormancy fees).</p>	<p>Type, amount, and condition of fees, if any (other than the service/dormancy requirements listed above); telephone number for fee information (incl. service/dormancy fees).</p>	<p>Type, amount, and condition of fees, if any (other than the service/dormancy requirements listed above); telephone number for fee information (incl. service/dormancy fees).</p>	<p>That it is issued for loyalty, award, or promotional purposes (front of card); expiration date (front of card); amount and terms of fees (provided on or with card); toll-free number and website, if any for fee information (on card).</p>
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