

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 353

Representative Reineke

Cosponsors: Representatives Dever, Sprague

A BILL

To amend section 169.01 of the Revised Code to 1
exempt certain open-loop prepaid cards, closed- 2
loop prepaid cards, and rewards cards from the 3
Unclaimed Funds Law. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 169.01 of the Revised Code be 5
amended to read as follows: 6

Sec. 169.01. As used in this chapter, unless the context 7
otherwise requires: 8

(A) "Financial organization" means any bank, trust 9
company, savings bank, safe deposit company, mutual savings bank 10
without mutual stock, savings and loan association, credit 11
union, or investment company. 12

(B) (1) "Unclaimed funds" means any moneys, rights to 13
moneys, or intangible property, described in section 169.02 of 14
the Revised Code, when, as shown by the records of the holder, 15
the owner has not, within the times provided in section 169.02 16
of the Revised Code, done any of the following: 17

(a) Increased, decreased, or adjusted the amount of such funds;	18 19
(b) Assigned, paid premiums, or encumbered such funds;	20
(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;	21 22 23
(d) Corresponded with the holder concerning such funds;	24
(e) Otherwise indicated an interest in or knowledge of such funds;	25 26
(f) Transacted business with the holder.	27
(2) "Unclaimed funds" does not include any of the following:	28 29
(a) Money received or collected under section 9.39 of the Revised Code;	30 31
(b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;	32 33 34 35 36 37
(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;	38 39 40 41 42 43
(d) Any credit due a retail customer that is represented	44

by a gift certificate, gift card, merchandise credit, or 45
merchandise credit card, redeemable only for merchandise; 46

(e) Any open-loop prepaid card for which the underlying 47
funds do not expire and the records of the holder do not 48
disclose the identity of the actual owner. For purposes of 49
division (B) (2) (e) of this section, "open-loop prepaid card" 50
means an electronic payment device that meets both of the 51
following conditions: 52

(i) It is purchased or loaded on a prepaid basis for the 53
future purchase or delivery of any goods or services. 54

(ii) It can be used to purchase goods and services at 55
multiple unaffiliated merchants or service providers. 56

(f) Any closed-loop prepaid card that has no expiration 57
date. For purposes of division (B) (2) (f) of this section, 58
"closed-loop prepaid card" means an electronic payment device 59
that meets both of the following conditions: 60

(i) It is purchased or loaded on a prepaid basis for the 61
future purchase or delivery of goods or services. 62

(ii) It is redeemable upon presentation to a single 63
merchant or service provider or an affiliated group of merchants 64
or service providers. 65

(g) Any rewards card. For purposes of division (B) (2) (g) 66
of this section, "rewards card" means an awards, rewards, 67
rebate, loyalty, incentive, or promotional card for which no 68
money was paid by the cardholder. 69

For purposes of divisions (B) (2) (b) and (c) of this 70
section, "business association" means any corporation, joint 71
venture, business trust, limited liability company, partnership, 72

association, or other business entity composed of one or more 73
individuals, whether or not the entity is for profit. 74

(C) "Owner" means any person, or the person's legal 75
representative, entitled to receive or having a legal or 76
equitable interest in or claim against moneys, rights to moneys, 77
or other intangible property, subject to this chapter. 78

(D) (1) "Holder" means any person that has possession, 79
custody, or control of moneys, rights to moneys, or other 80
intangible property, or that is indebted to another, if any of 81
the following applies: 82

(a) Such person resides in this state; 83

(b) Such person is formed under the laws of this state; 84

(c) Such person is formed under the laws of the United 85
States and has an office or principal place of business in this 86
state; 87

(d) The records of such person indicate that the last 88
known address of the owner of such moneys, rights to moneys, or 89
other intangible property is in this state; 90

(e) The records of such person do not indicate the last 91
known address of the owner of the moneys, rights to moneys, or 92
other intangible property and the entity originating or issuing 93
the moneys, rights to moneys, or other intangible property is in 94
this state or any political subdivision of this state, or is 95
incorporated, organized, created, or otherwise located in this 96
state. Division (D) (1) (e) of this section applies to all moneys, 97
rights to moneys, or other intangible property that is in the 98
possession, custody, or control of such person on or after July 99
22, 1994, whether the moneys, rights to moneys, or other 100
intangible property becomes unclaimed funds prior to or on or 101

after that date. 102

(2) "Holder" does not mean any hospital granted tax-exempt 103
status under section 501(c)(3) of the Internal Revenue Code or 104
any hospital owned or operated by the state or by any political 105
subdivision. Any entity in order to be exempt from the 106
definition of "holder" pursuant to this division shall make a 107
reasonable, good-faith effort to contact the owner of the 108
unclaimed funds. 109

(E) "Person" includes a natural person; corporation, 110
whether for profit or not for profit; copartnership; 111
unincorporated nonprofit association; public authority; estate; 112
trust; two or more persons having a joint or common interest; 113
eleemosynary organization; fraternal or cooperative association; 114
other legal or community entity; the United States government, 115
including any district, territory, possession, officer, agency, 116
department, authority, instrumentality, board, bureau, or court; 117
or any state or political subdivision thereof, including any 118
officer, agency, board, bureau, commission, division, 119
department, authority, court, or instrumentality. 120

(F) "Mortgage funds" means the mortgage insurance fund 121
created by section 122.561 of the Revised Code, and the housing 122
guarantee fund created by division (D) of section 128.11 of the 123
Revised Code. 124

(G) "Lawful claims" means any vested right a holder of 125
unclaimed funds has against the owner of such unclaimed funds. 126

(H) "Public utility" means any entity defined as such by 127
division (A) of section 745.01 or by section 4905.02 of the 128
Revised Code. 129

(I) "Deposit" means to place money in the custody of a 130

financial organization for the purpose of establishing an 131
income-bearing account by purchase or otherwise. 132

(J) "Income-bearing account" means a time or savings 133
account, whether or not evidenced by a certificate of deposit, 134
or an investment account through which investments are made 135
solely in obligations of the United States or its agencies or 136
instrumentalities or guaranteed as to principal and interest by 137
the United States or its agencies or instrumentalities, debt 138
securities rated as investment grade by at least two nationally 139
recognized rating services, debt securities which the director 140
of commerce has determined to have been issued for the safety 141
and welfare of the residents of this state, and equity interests 142
in mutual funds that invest solely in some or all of the above- 143
listed securities and involve no general liability, without 144
regard to whether income earned on such accounts, securities, or 145
interests is paid periodically or at the end of a term. 146

(K) "Director of commerce" may be read as the "division of 147
unclaimed funds" or the "superintendent of unclaimed funds." 148

Section 2. That existing section 169.01 of the Revised 149
Code is hereby repealed. 150