

Gift Cards and Bankruptcy: Now What?

Now that the holiday season is over, shoppers are flocking to stores to use their new gift cards. But what happens if the retailer that issued the gift card files for bankruptcy? Unfortunately, a gift card may be worth little or nothing if this occurs.

Consumers in California might have an extra measure of protection. California Civil Code § Section 1749.6(b) requires a retailer to honor gift certificates issued before the bankruptcy filing. However, this law may conflict with federal bankruptcy law and no court has ruled on the effectiveness of this law.

Retailers that file for reorganization under Chapter 11 of the Bankruptcy Code generally intend to stay in business. They will usually ask permission from the bankruptcy court to honor gift certificates in order to maintain good customer relations. However, there is no guarantee that the court will grant permission to accept gift certificates.

If the court will not allow the retailer to honor the gift certificates or if retailer is going out of business and filed for Chapter 7 liquidation, the card holder becomes a creditor of the bankruptcy estate. Gift certificates are considered unsecured debt and would have 7th priority among unsecured creditors. Many other types of creditors would have higher priority, including secured creditors and employees with unpaid wage claims. In fact, the holder of a gift card probably receive only a percentage of value of the gift care assuming the bankruptcy estate even has enough assets to pay creditor claims

In the end, the best thing to do with a gift card is to spend it as soon as possible. There is never a guarantee that the business will survive for the recipient to use it.

***About the Author:** [Carl H. Starrett II](#) has been a licensed attorney since 1993 and is a member in good standing with the California State Bar and the San Diego County Bar Association. Mr. Starrett practices in the areas of [bankruptcy](#), [business litigation](#), [construction](#), [corporate planning](#) and [debt collection](#).*