

By: Denny

H.B. No. 2248

Substitute the following for H.B. No. 2248:

By: Solomons

C.S.H.B. No. 2248

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain fraudulent criminal conduct affecting a  
3 financial institution.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 32.21(d), Penal Code, is amended to read  
6 as follows:

7 (d) An offense under this section is a state jail felony if  
8 the writing is or purports to be a will, codicil, deed, deed of  
9 trust, mortgage, security instrument, security agreement, credit  
10 card, check, authorization to debit an account at a financial  
11 institution, or similar sight order for payment of money, contract,  
12 release, or other commercial instrument.

13 SECTION 2. Section 32.31(a)(4), Penal Code, is amended to  
14 read as follows:

15 (4) "Debit card" means an identification card, plate,  
16 coupon, book, number, or any other device authorizing a designated  
17 person or bearer to communicate a request to an unmanned teller  
18 machine or a customer convenience terminal or obtain property or  
19 services by debit to an account at a financial institution. The  
20 term includes the number or description of the device if the device  
21 itself is not produced at the time of ordering or obtaining the  
22 benefit.

23 SECTION 3. Section 32.31(b), Penal Code, is amended to read  
24 as follows:

1 (b) A person commits an offense if:

2 (1) with intent to obtain a benefit fraudulently, he  
3 presents or uses a credit card or debit card with knowledge that:

4 (A) the card, whether or not expired, has not  
5 been issued to him and is not used with the effective consent of the  
6 cardholder; or

7 (B) the card has expired or has been revoked or  
8 cancelled;

9 (2) with intent to obtain a benefit, he uses a  
10 fictitious credit card or debit card or the pretended number or  
11 description of a fictitious card;

12 (3) he receives a benefit that he knows has been  
13 obtained in violation of this section;

14 (4) he steals a credit card or debit card or, with  
15 knowledge that it has been stolen, receives a credit card or debit  
16 card with intent to use it, to sell it, or to transfer it to a person  
17 other than the issuer or the cardholder;

18 (5) he buys a credit card or debit card from a person  
19 who he knows is not the issuer;

20 (6) not being the issuer, he sells a credit card or  
21 debit card;

22 (7) he uses or induces the cardholder to use the  
23 cardholder's credit card or debit card to obtain property or  
24 service for the actor's benefit for which the cardholder is  
25 financially unable to pay;

26 (8) not being the cardholder, and without the  
27 effective consent of the cardholder, he signs or writes his name or

1 the name of another on a credit card or debit card with intent to use  
2 it;

3 (9) he possesses two or more incomplete credit cards  
4 or debit cards that have not been issued to him with intent to  
5 complete them without the effective consent of the issuer. For  
6 purposes of this subdivision, a card is incomplete if part of the  
7 matter that an issuer requires to appear on the card before it can  
8 be used, other than the signature of the cardholder, has not yet  
9 been stamped, embossed, imprinted, or written on it;

10 (10) being authorized by an issuer to furnish goods or  
11 services on presentation of a credit card or debit card, he, with  
12 intent to defraud the issuer or the cardholder, furnishes goods or  
13 services on presentation of a credit card or debit card obtained or  
14 retained in violation of this section or a credit card or debit card  
15 that is forged, expired, or revoked; or

16 (11) being authorized by an issuer to furnish goods or  
17 services on presentation of a credit card or debit card, he, with  
18 intent to defraud the issuer or a cardholder, fails to furnish goods  
19 or services that he represents in writing to the issuer that he has  
20 furnished.

21 SECTION 4. Section 32.51(a)(1), Penal Code, is amended to  
22 read as follows:

23 (1) "Identifying information" means information that  
24 alone or in conjunction with other information identifies an  
25 individual, including an individual's:

26 (A) name, social security number, date of birth,  
27 and government-issued identification number;

1                   (B) unique biometric data, including the  
2 individual's fingerprint, voice print, and retina or iris image;

3                   (C) unique electronic identification number,  
4 address, and routing code, financial institution account number;  
5 and

6                   (D) telecommunication identifying information or  
7 access device.

8           SECTION 5. (a) This Act takes effect September 1, 2003.

9           (b) The change in law made by this Act applies only to an  
10 offense committed on or after the effective date of this Act. An  
11 offense committed before the effective date of this Act is covered  
12 by the law in effect when the offense was committed, and the former  
13 law is continued in effect for that purpose. For purposes of this  
14 subsection, an offense was committed before the effective date of  
15 this Act if any element of the offense was committed before that  
16 date.