

By: Giddings, Gonzalez Toureilles

H.B. No. 607

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the delivery of blank check forms; providing a civil
3 penalty.

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

5 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
6 Code, is amended by adding Section 35.395 to read as follows:

7 Sec. 35.395. DELIVERY OF CHECK FORM. (a) In this section:

8 (1) "Addressee" means a person to whom a check form is
9 sent.

10 (2) "Check form" means a device for the transmission
11 or payment of money that:

12 (A) is not a negotiable instrument under Section
13 3.104;

14 (B) if completed would be a check as that term is
15 described by Section 3.104; and

16 (C) is printed with information relating to the
17 financial institution on which the completed check may be drawn.

18 (3) "Courier" means a business, other than the United
19 States Postal Service, that delivers parcels for a fee.

20 (b) If an addressee selects a courier for delivery of a
21 check form, the signature of the addressee or the addressee's
22 representative must be obtained on delivery, unless the addressee
23 specifically notifies the person who prints the check form, or the
24 person's agent, that the signature of the addressee or the

1 addressee's representative is not required for delivery. The
2 notification may be made in writing on the check form order, by
3 electronic selection if the check forms are ordered using the
4 Internet, by electronic mail to an address provided to the
5 addressee by the person who prints the check form or the person's
6 agent, by recorded oral notice, or by another method reasonably
7 calculated to effectively communicate the addressee's intent.

8 (c) A person who prints a check form shall notify the
9 courier of the check form if the signature of the addressee or the
10 addressee's representative is required for delivery under
11 Subsection (b).

12 (d) A person who violates Subsection (b) or (c) is subject
13 to a civil penalty of \$1,000 for each violation.

14 (e) A courier who is notified under Subsection (c) that a
15 signature is required for delivery may not deliver the check form
16 before obtaining the signature of the addressee or a representative
17 of the addressee. A courier who violates this subsection is subject
18 to a civil penalty of \$1,000 for each violation.

19 (f) The attorney general may bring suit to recover a civil
20 penalty imposed under this section. The attorney general may
21 recover reasonable expenses incurred in obtaining a civil penalty
22 under this subsection, including court costs, reasonable
23 attorney's fees, investigative costs, witness fees, and deposition
24 expenses.

25 (g) This section applies only to an addressee located in the
26 delivery area of a courier. This section does not require a courier
27 to deliver a check form to an addressee who is not located in the

1 delivery area of the courier.

2 SECTION 2. The changes in law made by Section 35.395,
3 Business & Commerce Code, as added by this Act, do not apply to the
4 delivery of check forms if the addressee uses a check form order
5 form that does not include an option to select a signature
6 requirement and submits the order form before June 1, 2006.

7 SECTION 3. This Act takes effect January 1, 2006.