

AN ACT

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

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

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

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

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

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

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

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

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

(3) "Courier" means any entity that delivers parcels for a fee.

(4) "Check form provider" means a business that provides check forms to a customer for a personal or business account.

(b) When an addressee requests of a check form provider, courier delivery of a check form with signature required, and such

1 service is available in the delivery area of the addressee, the
2 entity making the arrangement for courier delivery pursuant to the
3 request of the addressee must provide the addressee with the option
4 to require that a signature of the addressee, or the representative
5 of the addressee, be obtained on delivery. The option to require
6 such a signature may be provided on a printed check form order form,
7 on an electronic check form order form where check form orders are
8 offered on the Internet, to an electronic mail address established
9 for such purpose by the entity making the offer, or by another
10 method reasonably calculated to effectively communicate the
11 addressee's intent.

12 (c) An entity making the arrangement for the courier
13 delivery of a check form to an addressee pursuant to the provisions
14 of Subsection (b) shall notify the courier of the check form that
15 the signature of the addressee is required for delivery under
16 Subsection (b).

17 (d) If the addressee suffers a pecuniary loss through the
18 use of check forms stolen at the time of delivery to the addressee,
19 a civil penalty of up to a maximum amount of \$1,000 per delivery may
20 be levied upon:

21 (1) an entity that violates Subsection (b) or (c); or
22 (2) a courier who is properly notified under
23 Subsection (c) that a signature is required for delivery, and
24 delivers the check form without obtaining a signature of the
25 addressee or a representative of the addressee.

26 (e) The attorney general may bring suit to recover a civil
27 penalty imposed under this section. The attorney general may

1 recover reasonable expenses incurred in obtaining a civil penalty
2 under this subsection, including court costs, reasonable
3 attorney's fees, investigative costs, witness fees, and deposition
4 expenses.

5 SECTION 2. This Act takes effect June 1, 2006.

President of the Senate

Speaker of the House

I certify that H.B. No. 607 was passed by the House on April 13, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 607 on May 27, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 607 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor