

By: Giddings

H.B. No. 1855

A BILL TO BE ENTITLED

AN ACT

relating to the deletion of certain electronic records concerning a customer who issues a check; 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 35.62 to read as follows:

Sec. 35.62. DELETION OF CERTAIN ELECTRONIC RECORDS CONCERNING A CUSTOMER WHO ISSUES A CHECK. (a) This section applies only to a business that accepts checks from customers in the ordinary course of business.

(b) A business shall delete any electronic record indicating that a customer has issued a dishonored check or any other information except for the checking account number or bank routing transit number on which the business bases a refusal to accept a check from a customer not later than the 30th day after the date:

(1) the customer and the business agree that the information contained in the electronic record is incorrect; or

(2) the customer presents to the business:

(A) a report filed by the customer with a law enforcement agency stating that the dishonored check was unauthorized; and

(B) a written notice from the customer that the dishonored check was unauthorized.

1 (c) A business that violates Subsection (b) is liable to the
2 state for a civil penalty of up to \$1,000. The attorney general may
3 sue to collect the penalty.

4 (d) The attorney general may recover reasonable expenses
5 incurred in obtaining a civil penalty under Subsection (c),
6 including court costs, reasonable attorney's fees, investigative
7 costs, witness fees, and deposition expenses.

8 (e) In this section, "law enforcement agency" has the
9 meaning assigned by Article 59.01, Code of Criminal Procedure.

10 (f) This section does not apply to a financial institution
11 as defined by 31 U.S.C. Section 5312(a)(2), as amended.

12 SECTION 2. This Act takes effect September 1, 2005.