

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.

H.B. No. 1855

President of the Senate

Speaker of the House

I certify that H.B. No. 1855 was passed by the House on April 21, 2005, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 1855 on May 26, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1855 on May 28, 2005, by a non-record vote.

Chief Clerk of the House

H.B. No. 1855

I certify that H.B. No. 1855 was passed by the Senate, with amendments, on May 23, 2005, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1855 on May 29, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor