

By: Giddings

H.B. No. 1855

A BILL TO BE ENTITLED

1 AN ACT

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

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

11 (b) A business shall delete any electronic record
12 indicating that a customer has issued a dishonored check or any
13 other information on which the business bases a refusal to accept a
14 check from a customer not later than the 30th day after the date:

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

17 (2) the customer presents to the business:

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

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

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

1 sue to collect the penalty.

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

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

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

1 COMMITTEE AMENDMENT NO. 1

2 Amend House Bill No. 1855 as follows:

3 On Page 2, between Lines 7 and 8, insert a new subsection (f)
4 to read as follows:

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

7 Elkins