

1-1 By: Giddings (Senate Sponsor - Ellis) H.B. No. 1855
1-2 (In the Senate - Received from the House April 22, 2005;
1-3 April 25, 2005, read first time and referred to Committee on
1-4 Business and Commerce; May 18, 2005, reported favorably by the
1-5 following vote: Yeas 6, Nays 0; May 18, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the deletion of certain electronic records concerning a
1-9 customer who issues a check; providing a civil penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
1-12 Code, is amended by adding Section 35.62 to read as follows:

1-13 Sec. 35.62. DELETION OF CERTAIN ELECTRONIC RECORDS
1-14 CONCERNING A CUSTOMER WHO ISSUES A CHECK. (a) This section applies
1-15 only to a business that accepts checks from customers in the
1-16 ordinary course of business.

1-17 (b) A business shall delete any electronic record
1-18 indicating that a customer has issued a dishonored check or any
1-19 other information except for the checking account number or bank
1-20 routing transit number on which the business bases a refusal to
1-21 accept a check from a customer not later than the 30th day after the
1-22 date:

1-23 (1) the customer and the business agree that the
1-24 information contained in the electronic record is incorrect; or

1-25 (2) the customer presents to the business:

1-26 (A) a report filed by the customer with a law
1-27 enforcement agency stating that the dishonored check was
1-28 unauthorized; and

1-29 (B) a written notice from the customer that the
1-30 dishonored check was unauthorized.

1-31 (c) A business that violates Subsection (b) is liable to the
1-32 state for a civil penalty of up to \$1,000. The attorney general may
1-33 sue to collect the penalty.

1-34 (d) The attorney general may recover reasonable expenses
1-35 incurred in obtaining a civil penalty under Subsection (c),
1-36 including court costs, reasonable attorney's fees, investigative
1-37 costs, witness fees, and deposition expenses.

1-38 (e) In this section, "law enforcement agency" has the
1-39 meaning assigned by Article 59.01, Code of Criminal Procedure.

1-40 (f) This section does not apply to a financial institution
1-41 as defined by 31 U.S.C. Section 5312(a)(2), as amended.

1-42 SECTION 2. This Act takes effect September 1, 2005.

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