

By: Giddings, Bohac

H.B. No. 2223

A BILL TO BE ENTITLED

AN ACT

relating to the making of a notation on and the processing of a forged check by a financial institution.

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 35.591 to read as follows:

Sec. 35.591. NOTATION OF FORGED CHECK. (a) In this section, "victim of identify theft" means a person who has filed with an appropriate law enforcement agency a criminal complaint alleging commission of an offense under Section 32.51, Penal Code.

(b) If a victim of identity theft closes an account at a financial institution as a result of the identity theft, notifies the financial institution that the identity theft is the reason for closing the account, provides the financial institution with a copy of the criminal complaint described by Subsection (a), and requests that the financial institution return checks with the notation "forgery," the financial institution shall process as forgeries the checks received after the customer takes those actions, in accordance with the financial institution's customary procedures.

(c) A victim of identity theft who requests that a financial institution return checks with the notation "forgery" as provided by Subsection (b):

(1) may not assert that the financial institution is liable under Section 4.402 for wrongfully dishonoring a check

1 returned after the victim makes the request; and

2 (2) shall hold the financial institution harmless for
3 acting in accordance with the victim's request.

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