

By: Giddings

H.B. No. 2899

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring a financial institution to notify check
3 verification entities when a customer reports checks stolen;
4 providing a civil penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
7 Code, is amended by adding Section 35.595 to read as follows:

8 Sec. 35.595. NOTIFICATION BY FINANCIAL INSTITUTION
9 REQUIRED. (a) In this section:

10 (1) "Check verification" means a determination of
11 whether the issuer of a check or similar sight order:

12 (A) has sufficient funds in or on deposit with
13 the bank or other drawee for the payment in full of the check or
14 order and all other checks or orders then outstanding; or

15 (B) has a history of issuing checks or other
16 sight orders for which the issuer does not have sufficient funds in
17 or on deposit with the bank or other drawee for the payment in full
18 of the check or order and all other checks or orders then
19 outstanding.

20 (2) "Check verification entity" means a business
21 entity that provides check verification services to businesses in
22 this state.

23 (3) "Financial institution" means a bank, savings
24 association, savings bank, or credit union maintaining an office,

1 branch, or agency office in this state.

2 (b) A financial institution shall notify each check
3 verification entity, of which the financial institution has actual
4 knowledge, if the financial institution is notified by a customer
5 that the customer's unused checks were stolen and the customer
6 presents to the financial institution:

7 (1) a copy of a police report, investigative report,
8 or complaint concerning the alleged theft of the customer's unused
9 checks; and

10 (2) an affidavit signed by the customer under penalty
11 of perjury attesting to the theft of the unused checks.

12 (c) If a customer notifies a financial institution of a
13 theft of the customer's unused checks and presents to the financial
14 institution the information required by Subsection (b), the
15 financial institution shall notify each check verification entity
16 not later than 48 hours after the customer presents the information
17 to the financial institution.

18 (d) The notification given by a financial institution under
19 Subsection (b) must include the name of the customer who reported
20 the theft and the allegation of theft by the customer.

21 (e) A financial institution that violates Subsection (b) is
22 liable to the state for a civil penalty of up to \$1,000. The
23 attorney general may sue to collect the penalty.

24 (f) The attorney general may recover reasonable expenses
25 incurred in obtaining a civil penalty under this section, including
26 court costs, reasonable attorney's fees, investigative costs,
27 witness fees, and deposition expenses.

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

COMMITTEE AMENDMENT NO. 1

Amend H.B. No. 2899 by striking page 2, lines 5-11, and substituting:

that the customer's unused checks were stolen and the customer:

(1) presents to the financial institution:

(A) a copy of a police report, investigative report, or complaint concerning the alleged theft of the customer's unused checks; and

(B) an affidavit signed by the customer under penalty of perjury attesting to the theft of the unused checks; and

(2) agrees to pay reasonable charges.

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