

BILL ANALYSIS

C.S.H.B. 2002
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, when a customer has his or her identity stolen, the customer notifies his or her bank. However, the customer does not realize that other entities will not be notified. For example, check verification entities will continue cashing bad checks in the customer's name, unaware that the customer is a victim of identity theft.

C.S.H.B. 2002 requires a bank to offer the customer the option of having the bank notify the check verification services that the customer was a victim of identity theft. The bill provides for a secure electronic notification system to convey this information. The bill also allows the customer to notify the check verification entity directly.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTIONS 1 (Section 35.595, Business & Commerce Code) and 2 (Section 11.309, Finance Code) of this bill.

ANALYSIS

C.S.H.B. 2002 amends the Business & Commerce Code to require a financial institution to notify check verification entities that a customer is a victim of Section 32.51, Penal Code, provided that the customer notifies the financial institution that the customer was the victim of that offense, provides certain proof to the financial institution, and provides written authorization. The bill requires the financial institution to provide notice by an electric notification system established by the Finance Commission of Texas (finance commission) not later than the second business day after the customer provides the required information and to include certain information in the notice. The bill prohibits a check verification entity from recommending approval or acceptance a check or similar sight order purportedly issued by a person if a financial institution notifies the check verification entity that the person was a victim of an offense under Section 32.51, Penal Code, or if the person who is the victim of the identity theft provides the check verification entity certain information and proof. The bill authorizes the finance commission to adopt certain rules, including those which specify how an erroneous notification may be withdrawn, amended, or corrected.

C.S.H.B. 2002 also amends the Finance Code to require the finance commission to adopt rules requiring a check verification entity to register with the banking commissioner at certain intervals and to provide certain information to the banking commissioner. The bill requires the rules to require the banking commissioner to make the list of check verification entities available to financial institutions and to authorize the banking commissioner to charge a check verification entity a reasonable registration fee not to exceed \$100. The bill requires the rules to establish an electronic notification system, through a secure e-mail or another secure system as determined by the finance commission, to be used for financial institutions to notify check verification entities that a customer was a victim of identity theft.

C.S.H.B. 2002 prohibits the finance commission from imposing a duty on the banking commissioner to verify the validity or completeness of information transmitted through the electronic notification system. The bill authorizes the banking commissioner to solicit and accept gifts, grants, and donations from public and private entities to establish and maintain the secure notification system.

C.S.H.B. 2002 defines "check verification entity," and "financial institution."

C.S.H.B. 2002 provides that the financial institutions do not need to comply until March 1, 2008.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by redefining "check verification entity" and removing the definition of "check verification." The substitute requires the financial institution to submit additional information to the check verification entities upon a customer's report of identity theft, and to submit the information no later than the second business day after the customer provides the required information, rather than within 48 hours of the customer providing that information. The substitute changes the language for a check verification entity from "approving" a check or similar sight order to "recommending acceptance or approval." The substitute adds rulemaking authority to the finance commission including specifying how an erroneous notification may be withdrawn, amended, or corrected. The substitute removes the civil penalties. The substitute requires the check verification entities to cease to recommend approval or acceptance of checks upon receipt of a report containing certain information by the consumer who was the victim of identity theft.

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