

AN ACT

relating to notification to check verification entities that a customer is a victim of identity theft and the consequences of the notice.

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 35.595 to read as follows:

Sec. 35.595. NOTIFICATION TO CHECK VERIFICATION ENTITIES THAT CUSTOMER IS VICTIM OF IDENTITY THEFT. (a) In this section:

(1) "Check verification entity" means a consumer reporting agency that compiles and maintains, for businesses in this state, files on consumers on a nationwide basis regarding the consumers' check-writing history.

(2) "Financial institution" means a bank, savings association, savings bank, or credit union maintaining an office, branch, or agency office in this state.

(b) A financial institution shall submit the information as required by Subsection (c) if a customer notifies the financial institution that the customer was a victim of an offense under Section 32.51, Penal Code, requests that the financial institution close an account that has been compromised by the alleged offense, and presents to the financial institution:

(1) a copy of a police report of an offense under Section 32.51, Penal Code;

1 (2) a sworn statement by the person that the person was
2 the victim of an offense under that section; and

3 (3) written authorization to submit the information
4 required by Subsection (d) to the electronic notification system
5 established under Section 11.309, Finance Code, for secure
6 distribution to check verification entities.

7 (c) A financial institution that receives the documents
8 required by Subsection (b), not later than the second business day
9 after the date the customer provides the documents to the financial
10 institution, shall submit the information required by Subsection
11 (d) to the electronic notification system established under Section
12 11.309, Finance Code.

13 (d) The information submitted by a financial institution
14 under Subsection (c) must include:

15 (1) the customer's name, address, phone number, date
16 of birth, and driver's license number or government-issued
17 identification number;

18 (2) the financial institution account number of any
19 account that has been compromised by the alleged offense and has
20 been closed in response to the alleged offense;

21 (3) the financial institution routing number; and

22 (4) the number on any check that has been lost, stolen,
23 or compromised.

24 (e) A check verification entity shall maintain reasonable
25 procedures, in accordance with rules adopted by the finance
26 commission, to prevent the check verification entity from
27 recommending acceptance or approval of a check or similar sight

1 order drawn on an account identified in the notification if:

2 (1) the check verification entity receives
3 notification through the electronic notification system; or

4 (2) a customer presents to the check verification
5 entity:

6 (A) a copy of a police report of an offense under
7 Section 32.51, Penal Code;

8 (B) a sworn statement by the person that the
9 person was the victim of an offense under that section and that the
10 person has requested that the financial institution close any
11 account that has been compromised by the alleged offense; and

12 (C) the information described by Subsection (d).

13 (f) A financial institution or check verification entity,
14 or an officer, director, employee, or agent of the institution or
15 entity, is not liable for damages resulting from providing the
16 notification required by Subsection (c) or failing to recommend
17 acceptance or approval of a check or similar sight order under
18 Subsection (e).

19 (g) The Finance Commission of Texas may adopt rules:

20 (1) to implement this section;

21 (2) to clarify the duties and responsibilities of a
22 customer, financial institution, or check verification entity
23 under this section; and

24 (3) to specify how an erroneous notification may be
25 withdrawn, amended, or corrected.

26 SECTION 2. Subchapter D, Chapter 11, Finance Code, is
27 amended by adding Section 11.309 to read as follows:

1 Sec. 11.309. RULES RELATING TO CHECK VERIFICATION ENTITIES.

2 (a) In this section, "check verification entity" and "financial
3 institution" have the meanings assigned by Section 35.595, Business
4 & Commerce Code.

5 (b) The finance commission shall adopt rules:

6 (1) requiring a check verification entity to register
7 with the banking commissioner:

8 (A) at the intervals the finance commission
9 determines, but not less frequently than annually; and

10 (B) by providing to the banking commissioner the
11 information that the finance commission determines is necessary to
12 enable a financial institution or a check verification entity to
13 comply with the requirements of Section 35.595, Business & Commerce
14 Code;

15 (2) authorizing the banking commissioner to charge a
16 check verification entity a reasonable annual fee, not to exceed
17 \$100, to register with the commissioner; and

18 (3) requiring the banking commissioner to establish an
19 electronic notification system, through secure e-mail or another
20 secure system, to be used by a financial institution to notify check
21 verification entities as required by Section 35.595, Business &
22 Commerce Code.

23 (c) The finance commission may not impose a duty on the
24 banking commissioner under Subsection (b)(3) to verify the validity
25 or completeness of information transmitted through the electronic
26 notification system.

27 (d) The banking commissioner may solicit and accept gifts,

1 grants, and donations from public and private entities to establish
2 and maintain the secure notification system.

3 SECTION 3. A financial institution is not required to
4 comply with Section 35.595, Business & Commerce Code, as added by
5 this Act, before March 1, 2008.

6 SECTION 4. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 2002 was passed by the House on May 9, 2007, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2002 was passed by the Senate on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor