

By: Giddings

H.B. No. 2002

Substitute the following for H.B. No. 2002:

By: Bohac

C.S.H.B. No. 2002

A BILL TO BE ENTITLED

AN ACT

1
2 relating to notification to check verification entities that a
3 customer is a victim of identity theft and the consequences of the
4 notice.

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

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

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

17 (b) A financial institution shall submit the information as
18 required by Subsection (c) if a customer notifies the financial
19 institution that the customer was a victim of an offense under
20 Section 32.51, Penal Code, and presents to the financial
21 institution:

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

24 (2) a sworn statement by the person that the person was

1 the victim of an offense under that section; and

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

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

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

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

17 (2) the financial institution account number of any
18 account that has been compromised by the alleged offense;

19 (3) the financial institution routing number; and

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

22 (e) A check verification entity may not recommend
23 acceptance or approval of a check or similar sight order drawn on an
24 account identified in the notification if:

25 (1) the check verification entity receives
26 notification through the electronic notification system; or

27 (2) a customer presents to the check verification

1 entity:

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

4 (B) a sworn statement by the person that the
5 person was the victim of an offense under that section; and

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

7 (f) A financial institution or check verification entity,
8 or an officer, director, employee, or agent of the institution or
9 entity, is not liable for damages resulting from providing the
10 notification required by Subsection (c) or failing to recommend
11 acceptance or approval of a check or similar sight order under
12 Subsection (e).

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

14 (1) to implement this section;

15 (2) to clarify the duties and responsibilities of a
16 customer, financial institution, or check verification entity
17 under this section; and

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

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

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

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

26 (b) The finance commission shall adopt rules:

27 (1) requiring a check verification entity to register

1 with the banking commissioner:

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

4 (B) by providing to the banking commissioner the
5 information that the finance commission determines is necessary to
6 enable a financial institution or a check verification entity to
7 comply with the requirements of Section 35.595, Business & Commerce
8 Code;

9 (2) authorizing the banking commissioner to charge a
10 check verification entity a reasonable annual fee, not to exceed
11 \$100, to register with the commissioner; and

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

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

21 (d) The banking commissioner may solicit and accept gifts,
22 grants, and donations from public and private entities to establish
23 and maintain the secure notification system.

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

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