

By: Harper-Brown

H.B. No. 3752

A BILL TO BE ENTITLED

AN ACT

relating to a financial institution's action regarding certain  
withdrawals and deposits.

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

SECTION 1. Subchapter D, Chapter 34, Finance Code, is  
amended by adding Section 34.308 to read as follows:

Sec. 34.308. DEPOSIT CONTRACT PROVISIONS REGARDING ACCOUNT  
WITHDRAWALS. A deposit contract between a bank and an account  
holder must provide that:

(1) deposits shall be considered credited to an  
account before withdrawals are considered made from the account if  
the deposit and withdrawal are made on the same business day; and

(2) the bank may not charge a fee for an overdraft or  
for insufficient funds if on the day the bank seeks to withdraw  
funds from the account there are sufficient funds in the account to  
pay a check drawn on the account, regardless of the date of the  
check.

SECTION 2. Section 95.004, Finance Code, is amended by  
adding Subsection (d) to read as follows:

(d) A deposit contract between a savings bank and an account  
holder must provide that:

(1) deposits shall be considered credited to an  
account before withdrawals are considered made from the account if  
the deposit and withdrawal are made on the same business day; and

1           (2) the bank may not charge a fee for an overdraft or  
2 for insufficient funds if on the day the bank seeks to withdraw  
3 funds from the account there are sufficient funds in the account to  
4 pay a check drawn on the account, regardless of the date of the  
5 check.

6           SECTION 3. Section 125.003, Finance Code, is amended to  
7 read as follows:

8           Sec. 125.003. DEPOSIT ACCOUNTS. (a) A deposit account  
9 consists of payments made under an agreement between the credit  
10 union and a depositor, including a draft account, checking account,  
11 savings account, certificate of deposit, individual development  
12 account, or other similar account or arrangement.

13           (b) A credit union shall provide by written agreement with a  
14 depositor that:

15           (1) deposits shall be considered credited to a deposit  
16 account before withdrawals are considered made from the account, if  
17 the deposit and withdrawal are made on the same business day; and

18           (2) the credit union may not charge a fee for an  
19 overdraft or for insufficient funds if on the day the credit union  
20 seeks to withdraw funds from the deposit account there are  
21 sufficient funds in the account to pay a check drawn on the account,  
22 regardless of the date of the check.

23           SECTION 4. The changes in law made by this Act apply only to  
24 a deposit contract or written agreement entered into or renewed on  
25 or after September 1, 2011. A deposit contract or written agreement  
26 entered into or renewed before September 1, 2011, is governed by the  
27 law as it existed on the date the contract or agreement was entered

1 into or renewed, and the former law is continued in effect for that  
2 purpose.

3 SECTION 5. This Act takes effect September 1, 2011.