

BILL ANALYSIS

Senate Research Center

H.B. 2002
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when a customer has his or her identity stolen, the customer notifies his or her bank. However, the customer may 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.

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. This bill provides for a secure electronic notification system to convey this information. This bill also allows the customer to notify the check verification entity directly.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 (Section 35.595, Business & Commerce Code) and SECTION 2 (Section 11.309, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.595, as follows:

Sec. 35.595. NOTIFICATION TO CHECK VERIFICATION ENTITIES THAT CUSTOMER IS VICTIM OF IDENTITY THEFT. (a) Defines "check verification entity" and "financial institution."

(b) Requires a financial institution to 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 (Fraudulent Use or Possession of Identifying Information), Penal Code, requests that the financial institution close an account that has been compromised by the alleged offense, and presents certain information to the financial institution.

(c) Requires a financial institution that receives the documents required by Subsection (b) to submit the information required by Subsection (d) to the electronic notification system established under Section 11.309, Finance Code, not later than the second business day after the date the customer provides the documents to the financial institution.

(d) Requires certain information to be included in the information submitted by a financial institution under Subsection (c).

(e) Requires a check verification entity (entity) to maintain reasonable procedures, in accordance with rules adopted by the Finance Commission of Texas (commission), to prevent the entity from recommending acceptance or approval of a check or similar sight order drawn on an account identified in the notification if the entity receives notification through the electronic notification system or if a customer presents certain information to the entity.

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

(g) Authorizes the commission to adopt rules for certain purposes.

SECTION 2. Amends Subchapter D, Chapter 11, Finance Code, by adding Section 11.309, as follows:

Sec. 11.309. RULES RELATING TO CHECK VERIFICATION ENTITIES. (a) Defines "check verification entity" and "financial institution."

(b) Requires the commission to adopt certain rules.

(c) Prohibits the commission from imposing a duty on the banking commissioner under Subsection (b)(3) to verify the validity or completeness of information transmitted through the electronic notification system.

(d) 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.

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

SECTION 4. Effective date: September 1, 2007.