

BILL ANALYSIS

Senate Research Center
87R1796 JES-D

H.B. 876
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been noted that, although online banking has become pervasive in recent years, many Texans still wish to receive payment by paper check for various reasons, including personal privacy issues. Concerns have been raised over reports of payors in Texas imposing extra fees on individuals who request payment by paper check, thus potentially dissuading Texans from receiving payment in their preferred form. H.B. 876 seeks to preserve Texans' fundamental right to choose the way in which they receive payment by prohibiting the imposition of these fees.

H.B. 876 amends the Business & Commerce Code to prohibit an individual, corporation, trust, partnership, association, or other private legal entity that makes a payment to a payee, as defined by the bill, from charging an additional fee to the payee for electing to receive the payment by paper check instead of by an automated clearinghouse transaction or other electronic funds transfer. The bill renders void and unenforceable any contract provision permitting a person to charge or collect such a fee from a payee, except that the bill establishes that a contract entered into before the bill's effective date prevails over the prohibition on charging certain fees to the extent of any conflict.

H.B. 876 amends current law relating to fees charged by certain persons for the method used for payments made under an agreement.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 116, as follows:

CHAPTER 116. FEES FOR CERTAIN PAYMENT METHODS

Sec. 116.0001. DEFINITIONS. Defines "payee" and "person."

Sec. 116.0002. FEE FOR CERTAIN PAYMENTS BY PAPER CHECK PROHIBITED.

(a) Prohibits a person that makes a payment to a payee from charging an additional fee to the payee because the payee elects to receive the payment by paper check instead of by an automated clearinghouse transaction or other electronic funds transfer.

(b) Provides that a provision in a contract permitting a person to charge or collect a fee from a payee in violation of Subsection (a) is void and unenforceable.

SECTION 2. Provides that to the extent of a conflict between Section 116.0002(a), Business & Commerce Code, as added by this Act, and a provision of a contract entered into before the effective date of this Act, the provision of the contract prevails.

SECTION 3. Effective date: September 1, 2021.