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SENATE BILL 5444

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Moore and A. Smith.

Read first time January 31, 1991. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the duty of a bank customer to discover and  
2 report unauthorized signatures and alterations; and amending RCW 62A.4-  
3 406.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 62A.4-406 and 1967 c 114 s 1 are each amended to read  
6 as follows:

7 (1) When a bank sends to its customer a statement of account  
8 accompanied by items paid in good faith in support of the debit entries  
9 or holds the statement and items pursuant to a request or instructions  
10 of its customer or otherwise in a reasonable manner makes the statement  
11 and items available to the customer, the customer must exercise  
12 reasonable care and promptness to examine the statement and items to  
13 discover his or her unauthorized signature or any alteration on an item  
14 and must notify the bank promptly after discovery thereof.

1 (2) If the bank establishes that the customer failed with respect  
2 to an item to comply with the duties imposed on the customer by  
3 subsection (1) of this section the customer is precluded from asserting  
4 against the bank:

5 (a) His or her unauthorized signature or any alteration on the item  
6 if the bank also establishes that it suffered a loss by reason of such  
7 failure; and

8 (b) An unauthorized signature or alteration by the same wrong-doer  
9 on any other item paid in good faith by the bank after the first item  
10 and statement was available to the customer for a reasonable period and  
11 before the bank receives notification from the customer of any such  
12 unauthorized signature or alteration.

13 (3) The preclusion under subsection (2) of this section does not  
14 apply if the customer establishes lack of ordinary care on the part of  
15 the bank in paying the item(s).

16 (4) Without regard to care or lack of care of either the customer  
17 or the bank, a customer who does not within (~~sixty days~~) one year  
18 from the time the statement and items are made available to the  
19 customer (subsection (1) of this section) discover and report his or  
20 her unauthorized signature or any alteration on the face or back of the  
21 item or does not within three years from that time discover and report  
22 any unauthorized indorsement is precluded from asserting against the  
23 bank such unauthorized signature or indorsement or such alteration.

24 (5) If under this section a payor bank has a valid defense against  
25 a claim of a customer upon or resulting from payment of an item and  
26 waives or fails upon request to assert the defense the bank may not  
27 assert against any collecting bank or other prior party presenting or  
28 transferring the item a claim based upon the unauthorized signature or  
29 alteration giving rise to the customer's claim.