

HOUSE BILL REPORT

EHB 1603

As Passed Legislature

Title: An act relating to deposit account information.

Brief Description: Disclosing deposit account information.

Sponsors: Representatives L. Thomas, Morris, Huff, Campbell, Smith, Beeksma and Kessler.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/9/95, 2/13/95 [DP].

Floor Activity:

Passed House: 3/8/95, 97-1.

Passed Legislature.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 12 members: Representatives L. Thomas, Chairman; Beeksma, Vice Chairman; Smith, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Campbell; Costa; Dellwo; Huff; Kessler; Mielke and Pelesky.

Staff: Charlie Gavigan (786-7340).

Background: The federal Right to Financial Privacy Act generally prohibits federal agencies from obtaining financial records on financial institutions' customers without a subpoena. There is no similar state law. Courts have held that financial institutions sometimes have a duty to their customers not to release information on their customers' accounts.

The Uniform Commercial Code (UCC) describes procedures for defining and processing negotiable instruments such as checks. A check is dishonored if it is properly presented for payment and not paid. The UCC allows a person or business holding a bad check to collect a reasonable handling fee. "Reasonable" is not defined. In addition, if a statutory notice is given and after 15 days have elapsed, the person or business can recover collection costs of the lesser of \$40 or the amount of the check. If court action is necessary, and the notice and 15 days have elapsed, attorneys fees plus the lesser of \$300 or three times the amount of the check can be collected.

Summary of Bill: A financial institution that discloses certain information requested by a law enforcement agency, if the institution does so in good faith, is immune from liability for the disclosure. The request must be in writing, must indicate the request is part of a criminal investigation, must indicate the officer believes statutory notice has been given, and must include a copy of at least one unpaid check. The financial institution, to the extent allowed by federal law, shall disclose: (1) the date the account was opened; (2) a copy of the statements of the account for the period under investigation; (3) a copy of the signature card; and (4) the notice of account closure, if applicable. The financial institution may charge requesting parties a reasonable fee.

Records obtained by law enforcement from financial institutions may be admitted as evidence in all courts provided a prescribed certificate is included.

It is a gross misdemeanor for a deposit account applicant to knowingly make false statements to a financial institution regarding: (1) the applicant's identity; (2) past fraud convictions; or (3) outstanding judgments on checks issued by the applicant. Each violation after the third violation is a Class C felony. A financial institution is under no duty to request this information when opening an account.

Appropriation: None.

Fiscal Note: Requested on February 13, 1995.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Check fraud and intentional bad checks are a major problem for retailers and customers, increasing the cost of doing business for retailers and the cost of merchandise for consumers. This bill helps fight check fraud by increasing the penalties for providing fraudulent information when opening checking accounts and makes it easier for law enforcement to obtain information from banks when conducting an investigation.

Testimony Against: None.

Testified: Jeff Cox, Washington Retail Association (pro); Kathleen Smith, Safeway (pro); Tim Schellberg, Sheriffs and Police Chiefs (pro); and Gary Smith, Independent Business Association (pro).