

SENATE BILL REPORT

EHB 1603

As Reported By Senate Committee On:
Financial Institutions & Housing, March 23, 1995

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 & Housing: 3/23/95 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair; Hale, Roach, Sellar, Smith and Sutherland.

Staff: Catherine Mele (786-7470)

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: If a financial institution, in good faith, discloses certain information requested by a law enforcement agency, it is immune from liability for disclosure. A designated law enforcement officer is permitted to request information concerning a customer if such a request is in writing. The written request must state that the request is part of a criminal investigation and that the officer reasonably believes that statutory notice has been given to the customer. The written request must include a copy of at least one unpaid check.

The financial institution, to the extent allowed by federal law, must provide the date the customer opened the account; a copy of the account statements for the period under

investigation; a copy of the signature card; and notice of the account closure if applicable. The financial institution may charge requesting parties a reasonable fee.

Records obtained by a law enforcement agency from a financial institution 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 the applicant's identity; past fraud convictions; or 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 is a major problem for retailers and consumers, increasing the costs of doing business for retailers and the cost of merchandise for consumers. Currently, law enforcement does not have access to investigate check fraud through the use of a deposit account. This bill provides law enforcement with the tools necessary to obtain required information and put a stop to check fraud scams. The bill is supported by all parties including retailers, businesses, law enforcement, and financial institutions.

Testimony Against: None.

Testified: PRO: Jeff Cox, WRA; Mike Hatten, Fred Meyer; Ron Huebner, Fred Meyer.