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SENATE BILL 5423

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State of Washington

55th Legislature

1997 Regular Session

By Senators Winsley and Prentice

Read first time 01/27/97. Referred to Committee on Financial Institutions, Insurance & Housing.

1 AN ACT Relating to the bank statement rule; and amending RCW 62A.4-  
2 406.

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

4 **Sec. 1.** RCW 62A.4-406 and 1995 c 107 s 1 are each amended to read  
5 as follows:

6 (a) A bank that sends or makes available to a customer a statement  
7 of account showing payment of items for the account shall either return  
8 or make available to the customer the items paid, copies of the items  
9 paid, or provide information in the statement of account sufficient to  
10 allow the customer reasonably to identify the items paid. (~~Until~~  
11 ~~January 1, 1998,~~) The statement of account provides sufficient  
12 information if the item is described by item number, amount, and date  
13 of payment. If the bank does not return the items paid or copies of  
14 the items paid, it shall provide in the statement of account the  
15 telephone number that the customer may call to request an item or copy  
16 of an item pursuant to subsection (b) of this section.

17 (b) If the items are not returned to the customer, the person  
18 retaining the items shall either retain the items or, if the items are  
19 destroyed, maintain the capacity to furnish legible copies of the items

1 until the expiration of seven years after receipt of the items. A  
2 customer may request an item from the bank that paid the item, and that  
3 bank must provide in a reasonable time either the item or, if the item  
4 has been destroyed or is not otherwise obtainable, a legible copy of  
5 the item. A bank shall provide, upon request and without charge to the  
6 customer, at least two items or copies of items with respect to each  
7 statement of account sent to the customer. A bank may charge fees for  
8 additional items or copies of items in accordance with RCW 30.22.230.  
9 Requests for ten items or less shall be processed and completed within  
10 ten business days.

11 (c) If a bank sends or makes available a statement of account or  
12 items pursuant to subsection (a), the customer must exercise reasonable  
13 promptness in examining the statement or the items to determine whether  
14 any payment was not authorized because of an alteration of an item or  
15 because a purported signature by or on behalf of the customer was not  
16 authorized. If, based on the statement or items provided, the customer  
17 should reasonably have discovered the unauthorized payment, the  
18 customer must promptly notify the bank of the relevant facts.

19 (d) If the bank proves that the customer, failed with respect to an  
20 item, to comply with the duties imposed on the customer by subsection  
21 (c) the customer is precluded from asserting against the bank:

22 (1) The customer's unauthorized signature or any alteration on the  
23 item, if the bank also proves that it suffered a loss by reason of the  
24 failure; and

25 (2) The customer's unauthorized signature or alteration by the same  
26 wrong-doer on any other item paid in good faith by the bank if the  
27 payment was made before the bank received notice from the customer of  
28 the unauthorized signature or alteration and after the customer had  
29 been afforded a reasonable period of time, not exceeding thirty days,  
30 in which to examine the item or statement of account and notify the  
31 bank.

32 (e) If subsection (d) applies and the customer proves that the bank  
33 failed to exercise ordinary care in paying the item and that the  
34 failure substantially contributed to loss, the loss is allocated  
35 between the customer precluded and the bank asserting the preclusion  
36 according to the extent to which the failure of the customer to comply  
37 with subsection (c) and the failure of the bank to exercise ordinary  
38 care contributed to the loss. If the customer proves that the bank did

1 not pay the item in good faith, the preclusion under subsection (d)  
2 does not apply.

3 (f) Without regard to care or lack of care of either the customer  
4 or the bank, a natural person whose account is primarily for personal,  
5 family, or household purposes who does not within one year, and any  
6 other customer who does not within sixty days, from the time the  
7 statement and items are made available to the customer (subsection (a))  
8 discover and report the customer's unauthorized signature or any  
9 alteration on the face or back of the item or does not within one year  
10 from that time discover and report any unauthorized indorsement is  
11 precluded from asserting against the bank such unauthorized signature  
12 or indorsement or such alteration. If there is a preclusion under this  
13 subsection, the payor bank may not recover for breach of warranty under  
14 RCW 62A.4-208 with respect to the unauthorized signature or alteration  
15 to which the preclusion applies.

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