

1 **HB 1603 - H AMD 129 ADOPTED 3/8/95**

2 By Representatives L. Thomas, Horn and Morris

3 Strike everything after the enacting clause and insert the
4 following:

5 "NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout sections 1 through 3 of this act.

7 (1) "Customer" means any person, partnership, limited
8 partnership, corporation, trust, or other legal entity that is
9 transacting or has transacted business with a financial
10 institution, that is using or has used the services of an
11 institution, or for which a financial institution has acted or is
12 acting as a fiduciary.

13 (2) "Financial institution" means state and national banks and
14 trust companies, state and federal savings banks, state and federal
15 savings and loan associations, and state and federal credit unions.

16 (3) "Law enforcement officer" means an employee of a public
17 law enforcement agency organized under the authority of a county,
18 city, or town and designated to obtain deposit account information
19 by the chief law enforcement officer of that agency.

20
21 NEW SECTION. **Sec. 2.** (1) If a financial institution
22 discloses information in good faith concerning its customer or
23 customers in accordance with this section, it shall not be liable
24 to its customers or others for such disclosure or its consequences.
25 Good faith will be presumed if the financial institution follows
26 the procedures set forth in this section.

27 (2) A request for financial records made by a law enforcement
28 officer shall be submitted to the financial institution in writing
29 stating that the officer is conducting a criminal investigation of
30 actual or attempted withdrawals from an account at the institution

1 and that the officer reasonably believes a statutory notice of
2 dishonor has been given pursuant to RCW 62A.3-515, fifteen days
3 have elapsed, and the item remains unpaid. The request shall
4 include the name and number of the account and be accompanied by a
5 copy of:

6 (a) The front and back of at least one unpaid check or draft
7 drawn on the account that has been presented for payment no fewer
8 than two times or has been drawn on a closed account; and

9 (b) A statement of the dates or time period relevant to the
10 investigation.

11 (3) To the extent permitted by federal law, under subsection
12 (2) of this section a financial institution shall within a
13 reasonable time disclose to a requesting law enforcement officer so
14 much of the following information as has been requested concerning
15 the account upon which the dishonored check or draft was drawn, to
16 the extent the records can be located:

17 (a) The date the account was opened; the details and amount of
18 the opening deposit to the account; and if closed, the reason the
19 account was closed, the date the account was closed, and balance at
20 date of closing;

21 (b) A copy of the statements of the account for the relevant
22 period including dates under investigation and the preceding and
23 following thirty days and the closing statement, if the account was
24 closed; and

25 (c) A copy of the front and back of the signature card;

26 (d) If the account was closed by the financial institution,
27 the name of the person notified of its closing and a copy of the
28 notice of the account's closing and whether such notice was
29 returned undelivered.

30 (4) Financial institutions may charge requesting parties a
31 reasonable fee for the actual costs of providing services under
32 this chapter. These fees may not exceed rates charged to federal
33 agencies for similar requests. In the event an investigation

1 results in conviction, the court may order the defendant to pay
2 costs incurred by law enforcement under this act.

3
4 NEW SECTION. **Sec. 3.** Records obtained pursuant to this
5 chapter shall be admitted as evidence in all courts of this state,
6 under Washington rule of evidence 902, when accompanied by a
7 certificate substantially in the following form:

8
9 CERTIFICATE

10
11 1. The accompanying documents are true and correct copies
12 of the records of [name of financial institution]. The
13 records were made in the regular course of business of
14 the financial institution at or near the time of the
15 acts, events, or conditions which they reflect.

16 2. They are produced in response to a request made under
17 section 2 of this act.

18 3. The undersigned is authorized to execute this
19 certificate. I CERTIFY, under penalty of perjury under
20 the laws of the State of Washington, that the foregoing
21 statements are true and correct.

22
23 _____
24 Date Signature

25
26 _____
27 Place of Signing Type or Print
28 Name/Title/

29 Telephone No.

30
31
32 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.38
33 RCW to read as follows:

1 (1) It is a gross misdemeanor for a deposit account applicant
2 to knowingly make any false statement to a financial institution
3 regarding:

4 (a) The applicant's identity;

5 (b) Past convictions for crimes involving fraud or deception;

6 or

7 (c) Outstanding judgments on checks or drafts issued by the
8 applicant.

9 (2) Each violation of subsection (1) of this section after the
10 third violation is a class C felony punishable as provided in
11 chapter 9A.20 RCW.

12
13 NEW SECTION. **Sec. 5.** Section 4 of this act does not create
14 a duty for financial institutions to request the information set
15 forth in section 4(1) of this act.

16
17 NEW SECTION. **Sec. 6.** Sections 1 through 3 and 5 of this act
18 are each added to chapter 30.22 RCW.

19
20 NEW SECTION. **Sec. 7.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected."

EFFECT: The striking amendment:(1) changes the definition of
"law enforcement officer"; (2) requires that the officer be
investigating a crime in order to obtain the deposit
information; (3) requires that the check presented by the
officer to the financial institution has been presented for
payment at least twice or has been drawn on a closed account;
(4) requires that the officer reasonably believe a statutory
notice has been given, 15 days have elapsed, and the check
remains unpaid; and (5) removes knowingly making false
statements to a financial institution regarding outstanding
claims and regarding the applicant's prior deposit account
history as elements of a crime.