

## **BILL ANALYSIS**

Senate Research Center

H.B. 2223  
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Business & Commerce  
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Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, when a check has been forged, there is no requirement that the check be noted as a forgery, nor does current law require that electronic records pertaining to that check carry the notation "forgery" as the transaction is pending with financial institutions. It is necessary that such notation be made in order that financial institutions and check payees are alerted that the check was written and signed by someone other than the person whose name is on the account against which the check is drawn.

H.B. 2223 defines "victim of identity theft" and provides that if a victim of identity theft closes an account at a financial institution as a result of the identity theft; and notifies the financial institution that the identity theft is the reason for closing the account, the financial institution must make a physical notation of "forgery" on the front and back of any document later presented to the institution for payment that purports to be a check drawn on the closed account or make an electronic notation of "forgery" on each electronic record pertaining to any document that is electronically presented to the financial institution for payment and that purports to be a check drawn on the closed account.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.591, as follows:

Sec. 35.591. NOTATION OF FORGED CHECK. (a) Defines "victim of identity theft."

(b) Requires a financial institution to process certain returned checks as forgeries, in accordance with the financial institution's customary procedures, under specific circumstances.

(c) Prohibits a victim of identify theft from asserting that the financial institution is liable under Section 4.402 (Bank's Liability to Customer for Wrongful Dishonor) for wrongfully dishonoring a check returned after the victim makes the request, under certain circumstances. Requires a victim of identity theft to hold the financial institution harmless for acting in accordance with the victim's request, under certain circumstances.

SECTION 2. Effective date: September 1, 2005.