

BUSINESS AND COMMERCE CODE

TITLE 11. PERSONAL IDENTITY INFORMATION

SUBTITLE B. IDENTITY THEFT

CHAPTER 523. PROVISIONS RELATING TO VICTIMS OF IDENTITY THEFT

SUBCHAPTER A. EXTENSIONS OF CREDIT AND VERIFICATION
OF IDENTITY

Sec. 523.001. EXTENSION OF CREDIT TO VICTIM OF IDENTITY THEFT. (a) In this section, "victim of identity theft" means an individual who has filed a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, other than a person who is convicted of an offense under Section 37.08, Penal Code, with respect to that complaint.

(b) A person who has been notified that an individual has been the victim of identity theft may not deny the individual an extension of credit, including a loan, in the individual's name or restrict or limit the credit extended solely because the individual has been a victim of identity theft. This subsection does not prohibit a person from denying an individual an extension of credit for a reason other than the individual's having been a victim of identity theft, including by reason of the individual's lack of capacity to contract.

(c) A license issued under Subtitle B, Title 4, Finance Code, that is held by a person who violates this section is subject to revocation or suspension under that subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 523.002. VERIFICATION OF CONSUMER IDENTITY. (a) In this section:

(1) "Consumer report" has the meaning assigned by Section 20.01.

(2) "Extension of credit" does not include:

(A) an increase in the dollar limit of an existing open-end credit plan as defined by federal Regulation Z (12 C.F.R. Section 226.2), as amended; or

(B) any change to, or review of, an existing credit account.

(3) "Security alert" has the meaning assigned by Section 20.01.

(b) A person who receives notification of a security alert under Section 20.032 in connection with a request for a consumer report for the approval of a credit-based application, including an application for an extension of credit, a purchase, lease, or rental agreement for goods, or for an application for a noncredit-related service, may not lend money, extend credit, or authorize an application without taking reasonable steps to verify the consumer's identity.

(c) If a consumer has included with a security alert a specified telephone number to be used for identity verification purposes, a person who receives that number with a security alert must take reasonable steps to contact the consumer using that number before lending money, extending credit, or completing any purchase, lease, or rental of goods, or approving any noncredit-related services.

(d) If a person uses a consumer report to facilitate the extension of credit or for any other transaction on behalf of a subsidiary, affiliate, agent, assignee, or prospective assignee, that person, rather than the subsidiary, affiliate, agent, assignee, or prospective assignee, may verify the consumer's identity.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER B. DUTIES OF FINANCIAL INSTITUTIONS AND OF VERIFICATION ENTITIES

Sec. 523.051. NOTATION OF FORGED CHECK. (a) In this section, "victim of identity theft" means a person who has filed with an appropriate law enforcement agency a criminal complaint alleging commission of an offense under Section 32.51, Penal Code.

(b) A financial institution, in accordance with its customary procedures, shall process as forgeries checks received on

the account of a victim of identity theft if the victim:

(1) closes the account at the financial institution as a result of the identity theft;

(2) notifies the financial institution that the identity theft is the reason for closing the account;

(3) provides the financial institution with a copy of the criminal complaint described by Subsection (a); and

(4) requests that the financial institution return checks with the notation "forgery."

(c) A victim of identity theft who requests that a financial institution return checks with the notation "forgery" as provided by Subsection (b):

(1) may not assert that the financial institution is liable under Section 4.402 for wrongfully dishonoring a check returned after the victim makes the request; and

(2) shall hold the financial institution harmless for acting in accordance with the victim's request.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Redesignated from Business and Commerce Code, Section 523.003 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 4.011(b), eff. September 1, 2009.

Sec. 523.052. NOTIFICATION TO CHECK VERIFICATION ENTITIES THAT CUSTOMER IS VICTIM OF IDENTITY THEFT. (a) In this section:

(1) "Check verification entity" means a consumer reporting agency that compiles and maintains, for businesses in this state, files on consumers on a nationwide basis regarding the consumers' check-writing history.

(2) "Financial institution" means a bank, savings association, savings bank, or credit union maintaining an office, branch, or agency office in this state.

(b) A financial institution shall submit the information as required by Subsection (c) if a customer notifies the financial institution that the customer was a victim of an offense under Section 32.51, Penal Code, requests that the financial institution close an account that has been compromised by the alleged offense,

and presents to the financial institution:

(1) a copy of a police report of an offense under Section 32.51, Penal Code;

(2) a sworn statement by the person that the person was the victim of an offense under that section; and

(3) written authorization to submit the information required by Subsection (d) to the electronic notification system established under Section 11.309, Finance Code, for secure distribution to check verification entities.

(c) A financial institution that receives the documents required by Subsection (b), not later than the second business day after the date the customer provides the documents to the financial institution, shall submit the information required by Subsection (d) to the electronic notification system established under Section 11.309, Finance Code.

(d) The information submitted by a financial institution under Subsection (c) must include:

(1) the customer's name, address, phone number, date of birth, and driver's license number or government-issued identification number;

(2) the financial institution account number of any account that has been compromised by the alleged offense and has been closed in response to the alleged offense;

(3) the financial institution routing number; and

(4) the number on any check that has been lost, stolen, or compromised.

(e) A check verification entity shall maintain reasonable procedures, in accordance with rules adopted by the finance commission, to prevent the check verification entity from recommending acceptance or approval of a check or similar sight order drawn on an account identified in the notification if:

(1) the check verification entity receives notification through the electronic notification system; or

(2) a customer presents to the check verification entity:

(A) a copy of a police report of an offense under Section 32.51, Penal Code;

(B) a sworn statement by the person that the person was the victim of an offense under that section and that the person has requested that the financial institution close any account that has been compromised by the alleged offense; and

(C) the information described by Subsection (d).

(f) A financial institution or check verification entity, or an officer, director, employee, or agent of the institution or entity, is not liable for damages resulting from providing the notification required by Subsection (c) or failing to recommend acceptance or approval of a check or similar sight order under Subsection (e).

(g) The Finance Commission of Texas may adopt rules:

(1) to implement this section;

(2) to clarify the duties and responsibilities of a customer, financial institution, or check verification entity under this section; and

(3) to specify how an erroneous notification may be withdrawn, amended, or corrected.

Added by Acts 2007, 80th Leg., R.S., Ch. 1044 (H.B. [2002](#)), Sec. 1, eff. September 1, 2007.

Transferred from Business and Commerce Code, Section 35.595 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 4.011(c), eff. September 2, 2009.