

BILL ANALYSIS

Senate Research Center
78R630 ATP-D

S.B. 796
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DIGEST AND PURPOSE

As proposed, S.B. 796 prohibits a financial institution from disclosing customer information to any person unless authorized to do so by the customer. Establishes the structure through which authorization can be given, what constitutes a violation of such authorization, and recourse for such a violation. S.B. 796 also sets forth the actions exempt against the prohibition from disclosing customer information.

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 Subtitle Z, Title 3, Finance Code, by adding Chapter 278, as follows:

CHAPTER 278. DISCLOSURE OF CUSTOMER INFORMATION

Sec. 278.001. DEFINITIONS. Defines "customer," "customer information," "financial institution," "financial institution regulatory agency," and "law enforcement agency."

Sec. 278.002. EXEMPTIONS. (a) Sets forth the actions exempt from this chapter.

(b) Requires an entity that receives customer information under Subsection (a)(11) to comply with this chapter as if the entity were a financial institution to which this chapter applies.

Sec. 278.003. DISCLOSURE OF CUSTOMER INFORMATION PROHIBITED. Prohibits a financial institution from disclosing customer information to any person, except as provided by this chapter.

Sec. 278.004. CONSENT TO DISCLOSURE. (a) Authorizes a customer to authorize a financial institution to disclose the customer's information to any person.

(b) Requires a customer's consent to be in writing and signed by the customer. Authorizes the consent to specify the time during which the consent is effective, the customer information authorized to be disclosed, and the persons to whom disclosure is authorized to be made.

(c) Prohibits a financial institution from requiring a customer's consent to disclosure of the customer's information as a condition of doing business with the financial institution. Provides that a consent or waiver obtained from a customer as a condition of doing business with a financial institution is not valid.

Sec. 278.005. DISCLOSURE OF CUSTOMER INFORMATION AUTHORIZED: UNLAWFUL ACTIVITY OR FRAUD. (a) Authorizes a financial institution to initiate contact with and disclose customer information to a law enforcement agency if the financial institution reasonably believes that the customer to whom the disclosed

information relates is engaged in unlawful activity or is defrauding the financial institution.

(b) Provides that the burden is on the financial institution to show that a disclosure made under this section was reasonable at the time the disclosure was made. Provides that the conviction of the customer for the offense or the admission by the customer that the customer committed the offense for which the financial institution disclosed the information is conclusive proof of the reasonableness of the financial institution's disclosure for purposes of this subsection.

Sec. 278.006. REIMBURSEMENT OF COSTS. (a) Authorizes a financial institution that assembles or provides customer information to require the person requesting the information to pay a fee for the reimbursement of reasonable and necessary costs incurred by the financial institution in assembling or providing the information.

(b) Requires a financial institution to deliver the customer information as soon as practicable, notwithstanding any dispute concerning the amount of reimbursement due under this section.

(c) Authorizes a financial institution to bring an action for recovery of reimbursement under this section.

Sec. 278.007. LIABILITY. Provides that a person is liable to a customer for an intentional violation of this chapter in an amount equal to the greater of \$1,000 or actual damages caused by the disclosure of the customer information.

SECTION 2. Effective date: September 1, 2003.